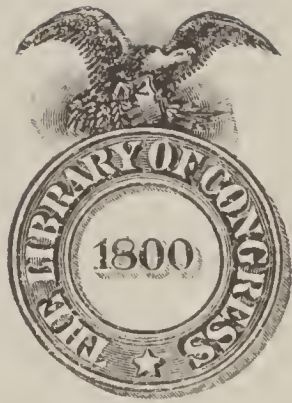


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1911

MINING LAWS

OF THE

STATE OF MONTANA

425
747

COMPILED FROM

THE REVISED CODES OF 1907

AND

SESSION LAWS OF 1909-1911

Compiled at the office of the Inspector of Mines

MINING DEPARTMENT

WM. WALSH, Mine Inspector WM. OREM, Deputy Inspector

COAL MINING DEPARTMENT

JOSEPH B. McDERMOTT, Coal Mine Inspector

Independent Publishing Company
1911



G-S 12-89

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DIVISION I.

LAWS RELATING TO METALLIFEROUS MINES.

Chapter I.

Inspector of Mines.

(Revised Codes, Part III, Title VII, Chapter II.)

Article III.

Section 1711. Inspector of Mines—Appointment—Salary.

1712. Deputy Inspector—Appointment—Qualifications—Salary.

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1717. Investigation After Accidents.

1718. Bond.

1719. Annual Report.

1720. To What Mines Act Applicable.

1721. Penalties.

Section 1711. Inspector of Mines—Appointment—Salary. The Governor, by and with the advice and consent of the Senate, must appoint an Inspector of Mines, who shall be at least thirty years of age, a resident of Montana at least one year, who shall be theoretically and practically acquainted with mines and mining in all its branches, and he shall hold his office for four years unless sooner removed by the Governor. No person shall hold the position of Inspector of Mines while an employee or officer of any mining company or corporation. The Inspector of mines must devote his entire time to the duties of his office, and his salary is two thousand five hundred dollars per annum. (Laws of 1909, Chapter 71, p. 94).

Inspector of Mines.

Qualifications and appointment.

Term of office.

Salary.

Section 1712. The Governor, by and with the consent of the Senate, must appoint a Deputy Inspector of Mines who shall possess like qualifications to those required of the Inspector of Mines, who shall hold his office for four years, unless sooner removed by the Governor. No person shall hold the office of Deputy Inspector of Mines while an employee or officer of any mining company or corporation. The Deputy Inspector of Mines must devote his entire time to the duties of his office,

Deputy Inspector.

Appointment, qualification and term of office.

Not to be officer or employee of any mine operator.

Duties and
Salary.

under the supervision and direction of the Inspector of Mines, and his annual salary shall be two thousand four hundred dollars (\$2,400.00) per annum. (Laws of 1911, p. 128).

Duties of Mine
Inspector.

Section 1713. **Duties of Mine Inspector—Annual Inspection.** It is the duty of the Inspector of Mines by himself or deputy to visit every mine in the State, once every year and inspect its workings, timbering, ventilation, means of ingress and egress, and the means adopted and in use for the preservation of the lives and safety of the miners employed therein. For this purpose the inspector and his deputy at all times shall have access to any mine and all parts thereof. All mine owners, lessees, operators or superintendents must render such assistance as may be necessary to enable the inspector or his deputy to make the examination. When upon such inspection any mine or portion thereof is found to be in an unsafe condition, the inspector shall at once serve a notice in writing upon the owner, lessor, lessee, agent, manager or superintendent thereof setting forth the nature of the defects which render such mine unsafe and the point or place in such mine where such defects exist, and requiring the repairs necessary to remedy such defects to be made within a specified time, and, if in his judgment the circumstances so require, he shall forbid the operation of such mine or portion thereof as has been declared unsafe, save and except for the purpose of making the repairs necessary for the purpose of remedying such defects and making such mine safe for the laborers employed therein.

Access to mines
and assistance to
be given.

Notice to owners
of unsafe condi-
tions.

May forbid
operating unsafe
places.

Examination of
mines upon com-
plaint.

Section 1714. **Duty to Inspect Mines upon Complaint.** Whenever the Inspector of Mines receives a complaint in writing signed by one or more parties setting forth that the mine in which he or they are working is dangerous in any respect, he or the deputy inspector must in person visit and examine such mine. Every complaint must set forth the nature of the danger existing at the mine and the time the cause of such danger was first observed.

Examination after
complaint.

Section 1715. **Notice to Owner of Defects.** After such complaint has been received by the Inspector of Mines, he must, as soon as possible, visit such mine: and if from

such examination he ascertains that the mine is from any cause in a dangerous condition, he must at once notify the owner, lessor, or agent thereof, such notice to be in writing and to be served by copy on such owner, lessor, lessee or agent, in the same manner as provided by law for the serving of legal process, and the notice must state fully and in detail in what particular manner such mine is dangerous or insecure, and require all necessary changes to be made without delay, for the purpose of making such mine safe for the laborers employed therein; and in any criminal or civil procedure at law against the party or parties so notified, on account of loss of life or bodily injury sustained by an employee subsequent to such notice and in consequence of a neglect to obey the inspector's requirements, a certified copy of the notice served by the inspector is prima facie evidence of the gross negligence of the party or parties so complained of. If the owner, lessor, lessee, or agent of any such mine shall neglect or refuse to obey or comply with the instructions of this inspector as contained in such notice, or shall neglect or refuse to cause the repairs necessary to remedy such defect to be made within a reasonable time, or shall refuse to cause work to be stopped when so ordered, such party or parties so refusing may be prosecuted criminally by the inspector.

Notice of dangerous condition.

Copy of notice prima facie evidence of neglect, when.

Prosecution of owner, or others, refusing to obey instructions of inspector.

Section 1716. **Annual Inspection—Report.** It is the duty of the Inspector of Mines, at least once in each year, either in person or by deputy inspector, to visit each mining county in the State, and examine as many of the mines in the different counties as practicable, and make such recommendations as in his judgment are necessary to insure the safety of the workmen employed therein, and whenever from his examination, he finds any mine to be in an unsafe condition, he shall at once serve a notice upon the owner, lessor, lessee, or agent thereof, and if such owner, lessor, lessee, or agent fails to comply with such notice, he may prosecute them or any of them as provided in the next preceding section.

Annual inspection and recommendations.

Notice of unsafe condition.

Section 1717. **Investigation After Accidents.** Whenever a serious or fatal accident occurs in any mine it is the duty of the person in charge thereof to immediately

Accidents and notice to inspecto.

Investigation
of Accidents.

Inspector to be
present at
coroner's inquest
and to testify.

Coroner to pro-
cure sworn state-
ments, when.

Prosecution of
mine operator.

Official Bond
of inspector.

Annual report and
contents.

To what mines
provisions apply.

notify the Inspector of Mines or the deputy inspector, and upon receiving such notice the inspector in person or the deputy inspector must at once repair to the place of accident, and investigate fully the cause of such accident, and whenever possible to do so, the inspector or deputy inspector shall be present at the coroner's inquest held over the remains of the person or persons killed by such accident, and testify as to the cause thereof, and state whether, in his opinion, the accident was due to the negligence or mismanagement of the owner or person in charge. If the inspector or deputy inspector can not be immediately present in case of a fatal or serious accident occurring, it is the duty of the owner or person in charge of the mine to have written statements made by those witnessing the same, and duly sworn to. In case no person was present at the time of the accident, then the verified statement of those first present after the accident must be taken, and such statement must be given to the inspector or the deputy inspector. If after making such investigation the inspector deems the facts warrant it, he may prosecute criminally the owner, lessor, lessee, or agent of the mine in which such accident occurred.

Section 1718. Bond of Inspector. The Inspector of Mines must execute an official bond in the sum of five thousand dollars and the deputy inspector must execute an official bond in the sum of twenty-five hundred dollars.

Section 1719. Annual Report. The Inspector of Mines must make an annual report to the Governor on the first Monday of November, and in the report must state all the accidents that have occurred in the mines of the State which have occasioned serious injury or resulted fatally, together with the nature and cause of such accidents. Such report must also contain statistical and other information which may tend to promote the development of the mineral resources of the State, and must set forth the result of the inspector's labors.

Section 1720. To What Mines Act Applicable. The provisions of the Article do not apply to mines in which less than five men are employed. But all owners, lessors, lessees, agents or managers operating any metalliferous

mine in this State in which five or more men are employed, shall report the same to the Inspector of Mines, state the name of the mine, the location of the same, the name of the company, person or persons owning or operating the same, postoffice address and number of men employed.

Duty of operators to give notice.

Section 1721. **Penalties.** All violations of the provisions of this Article are provided for in the Penal Code, Section 8563.

Chapter 2.

Code of Signals in Metalliferous Mines.

Section 1724. Code of Signals in Mines.

1725. Penalties.

1726. Fines Paid Into School Fund.

Section 1724. **Code of Signals in Mines.** It is made the duty of the Inspector of Mines of Montana, and he is hereby required to prepare a complete code of signals for use in all mines in this State, worked through a shaft of 75 feet or more in depth, and employing ten or more men, and cause the same to be made known to each owner or operator of a mine in Montana by printed circular instructions to the end that a uniform code of mine signals may prevail. The said inspector of mines of Montana may add to or change such code of signals as circumstances may require, but no change of signals shall go into effect until a time specified by him, not less than sixty days nor more than ninety days from the time such change shall be ordered by him; provided, that the code of signals first prepared by him shall be used in all said shaft mines from and after June 1, 1895.

Duty of inspector to prepare code of signals. To be used, when.

May change code.

Section 1725. **Penalty for Violation of Act.** Any owner or operator of a mine who shall refuse or neglect to cause the signals provided for in Section 1724 of this Act to be used in his mine to the exclusion of all other signals, shall be deemed guilty of a misdemeanor and upon conviction of such refusal or neglect, shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days or more than ninety days in the discretion of the court, for each and every offense.

Penalty for refusing to use code of signals.

Disposition of
fines collected.

Section 1726. **Fines Paid Into School Fund.** All fines which may be collected under the provisions of this Act shall be paid into and form a portion of the public school fund in the county in which conviction takes place.

STATE CODE OF MINE SIGNALS.

Signal Bells.

- 1 bell hoist, 1 bell stop, (if in motion).
- 2 bells lower men, 3 bells hoist men.
- 4 bells blasting signal, engineer must answer by raising bucket a few feet and letting it back slowly.
Then 1 bell hoist men away from blast.
- 5 bells steam on, 6 bells steam off.
- 7 bells air on, 8 bells air off. 3-2-2 send down drills.
3-2-3 send down picks.
- 9 bells danger signal, (case of fire or other danger), then ring number of station where danger exists. No person shall ring any bell except the station tender, except in case of danger, or when the main shaft is being sunk. Engineers must slow up when passing stations when men are on the cage.

Prescribed code
of signals for
quartz mines.

Station Bells.

Bells	Pause	Bells	No. Station	Bells	Pause	Bells	No. Station
2	"	1	1	5	"	1	16
2	"	2	2	5	"	2	17
2	"	3	3	5	"	3	18
2	"	4	4	5	"	4	19
2	"	5	5	5	"	5	20
3	"	1	6	6	"	1	21
3	"	2	7	6	"	2	22
3	"	3	8	6	"	3	23
3	"	4	9	6	"	4	24
3	"	5	10	6	"	5	25
4	"	1	11	7	"	1	26
4	"	2	12	7	"	2	27
4	"	3	13	7	"	3	28
4	"	4	14	7	"	4	29
4	"	5	15	7	"	5	30

Where electric bells are used in connection with other bells.
If cage is wanted ring station signal. Station tender will answer 1 bell.

- Reply 1 bell to go up.
- Reply 2 bells to go below.

If station is full of ore and station tender is wanted, ring station signal and do not answer back.

If 2-1-2 bells are rung, engineer or station tender does not understand, repeat signal.

In case of danger or accident, ring station signal, station tender will reply 1 bell, ring 9 bells.

One copy of this code should be posted on the gallows frame and one before the engineer.

To be in effect from and after June 1st, 1895.

This code is subject to change under certain conditions.

Penalty for Violation of Law Governing Inspector of Mines.

(Revised Codes.)

Penal Code, 1907.

Section 8563. Every person who violates any of the provisions of Article XIV., Chapter III., Part III., of the Political Code, relating to the inspection of mines, and every person who violates any of the provisions of Chapter XXIV., Title VII., Part III., of the Political Code, relating to dams and reservoirs, is guilty of a misdemeanor.

Section 8535. **Protecting Mining Shaft in City—Penalty.** Every person who sinks any shaft or runs any drift or cut, or causes the same to be done, within the limits of any city or town or village in this state, or within one mile of the corporate limits of any city or town, or within three hundred feet of any street, road or public highway, and who shall fail to place a substantial cover over or tight fence around the same is punishable by a fine not exceeding one thousand dollars (\$1,000).

The owner of any property, or his agent in charge thereof, or any person in possession of the same, shall be deemed to be within the provisions of this act if he permit any such shaft, drift or cut to remain open, exposed or unprotected upon his property, or the property in his charge or possession, for a period of more than 10 days.

Mining, irrigating and other ditches may be dug or cut to a depth not exceeding ten feet without incurring the penalty of this section.

Chapter 3.

Protection to Underground Miners.

(Part I., Title X., Revised Codes.)

- Section 8536. Safety Cages.
- 8537. Stoping Near Shaft.
- 8538. Running Cage at Excessive Speed.
- 8539. Maintaining Buildings Near Mouth of Shaft.
- 8540. Violations of Act—Penalties.
- 8541. Escapement Shaft.
- 8542. To What Mines Act Applicable.
- 8543. Penalties.

Section 8536. **Safety Cages.** It is unlawful for any corporation (or person) to sink or work, through any vertical shaft where mining cages are used, to a greater depth than three hundred feet, unless said shaft shall be provided with an iron-bonneted safety cage, to be used in the lowering and hoisting of the employees thereof, said cage to be also provided with sheet iron or steel casing not less than one-eighth inch in thickness; doors to be made of the same material shall be hung on hinges, or may be made to slide and shall not be less than five feet high from the bottom of the cage, and said doors must be closed when lowering or hoisting the men. Provided, that when such cage is used for sinking only, it need not be equipped with such doors as are hereinbefore provided for.

The safety apparatus, whether consisting of eccentrics, springs or other device, must be securely fastened to the cage, and must be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk.

The iron bonnet of the aforesaid cage must be made of boiler sheet iron, of good quality, of at least three-sixteenths of an inch in thickness, and must cover the top of such cage in such manner as to afford the greatest protection to life and limb from anything falling down said shaft.

It shall be the duty of the mining inspector and his assistant to see that all cages are kept in compliance with this section and to also see that the safety dogs are kept in good order.

Every person or corporation failing to comply with any of the provisions of this section is punishable by a

Iron bonneted
safety cages
required where.

Construction of
cages.

Safety appliances.

Material of
bonnet.

Duty of mine
inspector

Penalty for
violating sections.

fine of not less than three hundred dollars, nor more than one thousand dollars.

Section 8537. **Stoping Near Shaft.** It is unlawful for any corporation or person operating any mine in this State worked through a vertical or incline shaft to stope within a less distance than twenty-five (25) feet of the said shaft when other work is being carried on below said stoping. Stoping near shaft.

Section 8538. **Running Cage at Excessive Speed.** It is unlawful for any person or corporation operating any mine in this State worked through a vertical or incline shaft, where a cage or other device is used for the purpose of hoisting or lowering men to run such cage when men are upon the same at a greater rate of speed than eight hundred (800) feet per minute. Limit of speed of cage containing men.

Section 8539. **Maintaining Buildings Near Mouth of Shaft.** It is unlawful for any person, company or corporation to erect or maintain any building or inclosure, used for a blacksmith shop or drying room within a distance of fifty (50) feet of the mouth of any tunnel or shaft, unless the same be fire-proof in its construction. No combustible structure within 50 feet of mouth of tunnel or shaft.

Section 8540. **Violation of Act—Penalties.** The penalty for violating the provisions of any of the preceding sections is the same as provided in Section 8536 of the Revised Codes. Penalty.

Provided, that when it shall appear that any engineer has violated the express order of his employer in running his engine at a greater speed than 800 feet per minute the engineer alone shall be subject to prosecution, and to fine imposed by the provisions of this Act. Engineers to be fined when.

Section 8541. **Escapement Shaft.** It is the duty of any person, company or corporation, who shall have sunk on any mine a vertical or incline to a greater depth than one hundred feet, and who shall have the top of such shaft or hoisting opening covered or enclosed by a shaft or building which is not fire-proof, and who shall have drifted on or along the vein or veins thereof, a distance of two hundred feet or more, after cross cutting to the same, and shall have commenced to stope, to provide and maintain to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is ex- Separate escapements required, when.

Proviso.

When escape-
ment shaft shall
be constructed.

Size of
escapement
shafts.

Ladders.

Signboards
required, when.

Act applicable
to what quartz
mines.

Penalty.

tracted, a separate escapement shaft, raise, or opening, or an underground opening or communication between every such mine and some other contiguous mine, provided, that in case such contiguous mine belongs to a different person, company or corporation, the right to use the outlet through such contiguous mine in all cases when necessary, or in cases of accident must be secured and kept in force. Where such an escapement shaft or opening shall not be in existence at the time that stoping is commenced, work upon such escapement shaft or opening must be commenced as soon as stoping begins and be diligently prosecuted until the same is completed, and said escapement shaft, raise or opening shall be continued to and connected with the lowest workings in the mine. The exit, escapement shaft, raise or opening provided for in the foregoing paragraphs must be of sufficient size as to afford an easy passage way and if it be a raise, or shaft, must be provided with good and substantial ladders from the deepest workings to the surface. Whenever the exit or outlet herein provided for is not in a direct or continuous course, signboards plainly marked showing the direction to be taken must be placed at each departure from the continuous course.

Section 8542. **To What Mines Act Applicable.** This Act shall apply only to quartz mines in which nine or more men are employed underground, and shall not apply to mines not actually extracting ores, by stoping, nor to mines in which the shaft or hoisting opening, or hauling way is not covered by a shaft house, and has no building structure within thirty (30) feet of the shaft or opening nor to mines in which the hoisting shaft or opening shall be covered by or enclosed in a fire-proof shaft or building.

Section 8543. **Penalties.** The penalty for violating any of the provisions of the preceding section is the same as provided in Section 8536 of the Revised Codes.

Chapter 4.

Storing of Explosives.

(Revised Codes, Part I., Title X.)

Section 8545. Regulating Sales of Explosives.

8546. Storage of Explosives in Mines.

8547. Storage of Explosives in Cities.

8552. Penalties.

8553. Penalty in Case of Death caused by Violation of Act.

Section 8545. **Regulating Sales of Explosives.** That every person, company or corporation, manufacturing, storing, selling, transferring, dealing in, or in any manner disposing of any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance, shall keep in a book for that purpose an accurate record of all transactions, with the date thereof, relating to the receiving and disposing of the same, which record shall show the amount of each such explosive received, by whom transported or conveyed, and each and every sale or other disposition made of such explosive, with the amount thereof, and the name of the person to whom delivery of the same was made, who shall be required to receipt therefor. Such records shall at all times be open to the inspection of the State Inspector of Mines, or any peace officer.

Record to be kept by all dealers in explosives.

Contents of record.

Section 8546. **Storage of Explosives in Mines.** No person, company or corporation shall store, deposit or keep in any mine a greater quantity than three thousand pounds of blasting powder, giant or Hercules powder, or other highly explosive substance, and no explosives named in this Section shall be stored, deposited or kept in any place where its accidental explosion would cut off the escape of miners working in said mine.

Limiting quantity of explosives stored or kept in mines.

Section 8547. **Storage of Explosives in Cities, Etc.** No person, company or corporation, shall store, deposit or keep within one mile of the limits of any city, town or village, any powder, gunpowder, giant or Hercules powder or other highly explosive substance, in greater quantities than one hundred pounds, nor more than one thousand giant caps, at any one time, nor shall such explosives be stored, deposited or kept in any quantities whatever with-

Not over 100 pounds of any explosive permitted within any city or town.

Giant caps.

Exception—

Mines operated
within city limits.

Exception as to
gunpowder.

Penalty.

Crime and pun-
ishment when
death is result of
violation of fore-
going provisions.

in one mile of such city, town or village, except in a magazine constructed as hereinafter described. Provided, that this Section shall not be construed to prevent any person, company or corporation, operating a mine within one mile of the limits of such city, town or village, from storing powder for use in such mine in the manner prescribed in Sections 8546 and 8548 of this Act. Provided also, that this Section shall not prevent the keeping of a reasonable amount of gunpowder, not exceeding fifty pounds, in a safe place for sale.

Section 8552. **Penalties.** Any person, or association or persons, violating any of the provisions of this Act, shall be punished by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.

Section 8553. **Penalty When Death Caused by Violation of this Act.** When the death of any person is caused by the explosion of any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance, that has been stored, kept, handled or transported, contrary to the provisions of the foregoing Sections, the person or persons who have so unlawfully stored, kept, handled, or transported such explosives, or who may have knowingly or negligently permitted their agents, servants or employees, to so unlawfully store, keep, handle or transport the same, shall be guilty of manslaughter, and on conviction shall be punished by imprisonment in the state penitentiary for a period not exceeding ten years.

Chapter 72.

Laws 1911, p. 135.

"An Act to improve the Sanitary condition of Quartz Mines by providing for the proper ventilating of the same, and for protecting the lives of miners and providing penalties for the violation of this Act."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be the duty of all mining operators of any and all quartz mines in this State, when working to a greater depth than three hundred feet, or any general manager, superintendent, or foreman acting

Duty of quartz
mine owners,
general managers,
superintendents
and foremen.

on behalf of the above, whether said mining property is operated by tunnel, shaft, or other opening, to provide where necessary, feasible and practicable, a suitable and practical method for ventilating said mine either by separate shaft, or other mine working of suitable size or capacity which said ventilating system shall provide for the delivery of air to all portions of said mine that are being operated, and also provide reasonable means for carrying away of noxious fumes, gas, or smoke.

Ventilation to be furnished.

Section 2. It shall be the duty of all mining operators to provide suitable and practicable toilet arrangements, or places which may be used for toilet purposes, for the use of employees in mines, such toilets, or sanitary arrangements may consist of a properly constructed toilet car, or receptacle where it is practical and feasible to use the same, that may be taken into the different working levels of a mine, and when such cars, or receptacles are used they shall be sent to the surface each day for proper cleaning or disinfecting. Where proper toilet apparatus is not provided, the employee shall be allowed to go to surface or other suitable place, which place shall be kept in a reasonably sanitary condition. Underground stables shall be cleaned and droppings in waste taken to the surface each day. This section applies to mines working thirty men or over.

Toilet places or arrangements to be supplied.

Toilet cars and receptacles to be disinfected.

When toilet apparatus is not provided.

Underground stables.

Section 3. Underground workings consisting of chutes, manways and winzes, or any opening kept for ventilating purposes, or for the removal of ore, or waste material, shall when necessary be protected by guard rails, or by suitable cover known as a grizzly, made of good substantial timbers, or metal bars. Shafts at stations shall be protected by guard rails at every level. In vertical manways used by employees exclusively for traveling purposes in addition to proper ladders there shall be suitable landings, placed not to exceed thirty feet apart and so far as feasible and practicable all such manways, or air courses used as an escape for men must be kept free from all obstructions.

Guard rails and grizzlies for underground openings.

Protection at shaft stations.

Vertical manways to be supplied with landings and kept free from obstructions.

Section 4. Every mining operator whether person or corporation failing to comply with any of the provisions of this Act, or any general manager, superintendent, or foreman acting on behalf of such mining operator and failing to comply with any of the provisions of this Act, shall be guilty of a misdemeanor.

Violation of this act a misdemeanor.

Approved March 2, 1911.

Chapter 120.

Laws 1911, p. 261.

An Act to regulate the operation of all coal mines in the State of Montana, to provide for their inspection and the qualifications of inspectors and certain other employees of coal mines and to codify all laws with reference to the operation of all coal mines in the State of Montana, repealing Sections 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709 and 1710, 2023 of the revised codes of the State of Montana and Chapters 64 and 65 of the Laws of 1909.

Be it enacted by the Legislative Assembly of the State of Montana:

Coal mining code. **Coal Mine Inspector.—Appointment.—Term of Office.**

Section 1. This act shall be known as the coal mining code of the State of Montana.

State coal mine inspector, appointment.

Section 2. The Governor, by and with the advice and consent of the Senate, shall appoint one State Coal Mine Inspector qualified as hereinafter provided, who shall hold office for a term of four years from the date of his appointment, unless otherwise removed by the Governor.

Qualifications of Inspector.

Qualifications.

Section 3. No person shall be eligible to the office of State Coal Mine Inspector until he shall have attained the age of thirty years. He shall be a citizen of the United States, a qualified resident of the state of Montana, shall have been actually employed at coal mining ten years prior to his appointment and shall possess a competent knowledge of all the different systems of coal mining and working and properly ventilating coal mines, and the nature and constituent parts of noxious and explosive gases of coal mines, and of the various ways of expelling the same from the said mines. He shall have passed a successful examination by the Board of Examiners and his certificate of qualification shall have been filed with the Governor by the said Board of Examiners, as provided by law.

Shall have passed a successful examination by the board of examiners.

Salary of Inspector.

Section 4. The salary of the State Coal Mine Inspector shall be twenty-five hundred dollars per annum and all necessary and traveling expenses. The State Coal Mine Inspector shall file with the State Treasurer a bond, approved by the Governor of the State, in the sum of five thousand dollars (\$5000), for the faithful performance of his duties.

Salary of coal mine inspector and necessary traveling expenses.

Official bond.

Powers and Duties of Inspector.

Section 5. The State Coal Mine Inspector shall have the right, and it is hereby made his duty, to enter, inspect, and examine any coal mine or any shaft, drift or slope in the process of sinking for the purpose of mining coal in this State and the workings and the machinery belonging thereto, at all reasonable times, either by day or night, but not so as to impede or obstruct the workings of the mine, and when such inspection is contemplated he shall first notify the person in charge of his intention to make such examination. He shall also have the right and it is his duty to make inquiry into the condition of such mine, workings, machinery, scales, ventilation, drainage, method of lighting or using lights, and into all methods and things connected with or relating to, as well as to make suggestions providing for the health and safety of persons employed in or about the same, and especially to make enquiry whether or not the provisions of the laws providing for the regulation of coal mines, or other acts which may hereafter be enacted governing coal mines, have been complied with. The owner, operator or superintendent of such mine is hereby required to furnish the means necessary for such entry, inspection, examination, enquiry and exit. It shall also be the duty of the said Coal Mine Inspector to carefully examine all the coal mines in operation in this State at least every three months and oftener if necessary; to see that every precaution is taken to insure the safety of all the workmen that may be engaged in said coal mine. The said Inspector shall make a record of the visit, noting the time and the material circumstances of the inspection. At the time of making his regular quarterly inspection, in the event of the Inspector having in

Shall examine coal mines.

Must notify person in charge of his intention to examine.

Must inquire into what.

Health and safety of employees.

Compliance with law.

Owner must furnish means of inquiry and examination.

Mines to be examined at least every three months.

To make record of visits.

When he must notify employees of intention to inquire into enforcement of code.

Owner may accompany inspector in making inspection.

his possession any complaint in writing to the effect that the mining code is being violated, he shall notify the employes that he is about to make such inspection, and if the employes, in some proper manner, select one of their number to accompany the Inspector on such inspection, he shall permit such employe to so accompany him. In the event of no such selection being made the Inspector may, if he so desire, request some employee to accompany him. The owner or operator shall at all times have the right to personally accompany the Inspector while inspecting his property, or to designate some one to so accompany him.

Inspector Must Not Be Employed by Companies.

Inspector must not be in employ of operator or interested in any coal mine operation.

Section 6. The said State Coal Mine Inspector while in office shall not act as agent for any corporation, superintendent or manager of any mines, and shall in no manner whatever be under the employ of mining companies nor shall he be interested in any coal mining operation either as owner, lessee or otherwise. It shall be the duty of the said State Coal Mine Inspector, on or before the first day of January of every year, to make a report to the Governor of his proceedings as such State Coal Mine Inspector and the conditions of each and every coal mine in the State, stating therein all accidents that have happened in or about said mine or mines, and to set forth in said report all such suggestions as he may deem important as to any further legislation on the subject of coal mines.

Annual report to governor.

Instruments to be Furnished to Inspector.

State must furnish necessary instruments.

Section 7. For the more efficient discharge of the duties herein imposed upon him, the State Coal Mine Inspector shall be furnished at the expense of the State with an anemometer, a safety lamp and whatever other instruments or other appliances may be necessary in order to carry into effect the provisions of the acts regulating coal mines.

Inspector to Post Statement of Mine at Entrance.

Inspector must post notice at top of mine giving its condition and needs.

Section 8. The State Coal Mine Inspector shall post up in some conspicuous place at the top of each mine visited and inspected by him, a plain statement of the conditions of such mine, showing what in his judgment

is necessary for the better protection of the lives and health of persons employed in such mine; such statement shall give the date of inspection and be signed by the said Inspector. He shall also post a notice at the landing used by the men, stating what number of men may be permitted to ride on the cage, car or cars at one time, and at what rate of speed men may be hoisted and lowered on the cage, car or cars in accordance as herein-after provided for in this act. He must observe especially that the code of signals provided in the act regulating coal mines between engineer and top men and bottom men, is conspicuously posted for the information of all employees.

Other notice to be posted at landing.

To require notice of signals to be posted.

Temporary Vacancy in Office, How Filled.

Section 9. In case the State Coal Mine Inspector becomes incapacitated and cannot perform the duties of his office for a longer period than two weeks, it shall be the duty of the Governor to deputize some competent person having the qualifications provided in this act to fulfil the duties of the said Inspector until the said Inspector shall return to the performance of his official duties, and the person deputized by the Governor shall be paid by the State out of any moneys in the general fund of the State not otherwise appropriated, for the services rendered at the same rate as received by the State Coal Mine Inspector.

Appointing substitute in case Inspector is unable to perform duties.

Qualifications and compensation of substitute.

In case of the death, resignation, or removal from office of the State Coal Mine Inspector before the expiration of the term of office, the Governor shall appoint a duly qualified person as provided in this act, to fill the vacancy for the unexpired term.

Filling vacancy in the office of coal mine inspector.

Inspector Ex-officio Sealer of Weights and Measures.

Section 10. The State Coal Mine Inspector is hereby made, equally with the County Clerk, ex-officio sealer of weights and measures, in so far as the same relates to coal mines and coal mining, and as such is empowered to test and compare all weights and measures used in weighing and measuring coal at any coal mine, or used in measuring air passages or other openings in coal mines, with the standards of weights and measures kept by the County Clerk of any County. Upon the written request of any

Shall be ex-officio sealer of weights and measures in connection with business of coal mining.

Powers as sealer of weights and measures.

Duty to test scales when.

When and how to
direct correction
in scales.

When his tests
shall prevail.

State shall fur-
nish inspector
with standard
weights, as the
inspector shall
deem necessary.

Custody of
weights.

Cost of transpor-
tation, storage
and hauling
standards.

Inspector to ap-
ply to the district
court in case
inspection and
facilities therefor
are refused.

coal mine owner or operator or ten coal miners employed at any one mine, it shall be his duty to test and prove any scale or scales at such mine against which complaint is directed and if he shall find that they or any of them do not weigh correctly, he shall call the attention of the mine owner, lessor or operator to the fact and direct that said scale or scales be at once overhauled and readjusted so as to indicate only true and correct weights, and he shall forbid the further operation of such scale until such scales are adjusted. In the event that such test shall conflict with any test made by any county sealer of weights and measures, or under and by virtue of any municipal ordinance or regulation, then the test by such State Coal Mine Inspector shall prevail.

Standard Test Weights to be Furnished to Inspector.

Section 11. For the purpose of carrying out the provisions of this Act, the State Coal Mine Inspector shall be furnished by the State with such sets of standard weights suitable for testing the accuracy of track scales, and all smaller scales at mines, as may in the judgment of the State Coal Mine Inspector be necessary; said test weights shall remain in the custody of the State Coal Mine Inspector for use at any point within the State, and for any amounts expended by him for the storage, transportation or the handling of the same, he shall be fully reimbursed upon making proper entry of the proper items in his expense voucher.

Refusal of Mine Operator to Furnish Facilities for Examination.

Section 12. If any owner, lessor or operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examination and inspection, the inspector shall file his affidavit setting forth his refusal, with the judge of the District Court in said county in which said mine is situated, either in termtime or vacation, and obtain an order on such owner, operator or agent so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly.

Investigation of Charges for Neglect of Duty.

Section 13. Whenever a petition signed by fifty or more reputable citizens, legal residents of the State, verified by oath by two or more of the said petitioners and accompanied by a bond in the sum of five hundred dollars, running to the State, executed by two or more freeholders, approved and accepted by the Clerk of the District Court of the County or Counties of their residence, conditioned for the payment of all costs and expenses arising from the investigation of the charges is filed with the clerk of the district court setting forth that the State Inspector of Mines neglects his duties or is incompetent, or is guilty of malfeasance in office or misfeasance in office, it shall be the duty of the District Court of the County to issue a citation in the name of the State to the said inspector, to appear, at not less than five days notice, on a day fixed, before said court, and the court shall then proceed to enquire into and investigate the allegations of the petitioners; such action shall be prosecuted by the County Attorney.

When charges are filed against coal mine inspector in district court for negligence, malfeasance or incompetency.

Bond accompanying charges.

Duty of the court. Citation to issue.

Hearing.

County attorney must prosecute charges.

Penalties for Violation of Duty.

Section 14. If the Court finds that the said State Coal Mine Inspector is neglectful of his duties or incompetent to perform the duties of his office, or that he is guilty of malfeasance or misfeasance in office, the court shall certify the same to the Governor, who shall declare the office of said State Coal Mine Inspector vacant, and proceed in compliance with the provisions of this Act to fill the vacancy and the costs of such investigation shall, if the charges are sustained, be imposed upon the said State Coal Mine Inspector.

If court finds charges to be true it shall certify fact to the Governor.

Governor to declare the office vacant.

Costs to be paid, in such event, by the inspector.

Board of Examiners of Applicants for Coal Mine Inspector.—Appointment.

Section 15. The Governor of the State shall within sixty days after the passage of and approval of this Act, upon the recommendation of the coal miners of this State, appoint one practical coal miner actively employed in coal mining in the State of Montana, and one mine manager or superintendent, who shall be recommended to the Governor by the majority of the coal mine operators of the State of Montana, and one practical coal mining

Board of examiners: Appointment.

To consist of whom.

Term of office of members of the board.

engineer; the three so named by the Governor shall constitute a Board of Examiners to pass upon the qualifications of applicants for State Coal Mine Inspector of the State of Montana. They shall hold office for four years and until their successors, appointed in the same manner, are appointed and qualified.

Scope of Examination.

Duty of board of to examine all applicants for position of state coal mine inspector.

Section 16. It shall be the duty of the said Board to examine into the qualifications of all applicants for appointment to the position of State Coal Mine Inspector of the State of Montana, by conducting a thorough examination as to their knowledge of mine workings, ventilation, gases, fire damp, machinery and actual experience in under-ground coal mining, and to acquaint themselves with the personal character, habits and general worthiness of each applicant. The general examination shall be in writing, and the manuscript and other papers of all applicants, together with the tally sheets and the solution of each question as given by the Examining Board, shall be filed with the Secretary of the State as public documents, but such applicants shall undergo an oral examination pertaining to explosive gases and safety lamps. All candidates shall be allowed the use of such text books as in the discretion to the board may be deemed proper, during the examination. The Board of Examiners shall confine the examination of applicants to subjects such as are designated in this section. No person shall be certified as competent whose average per cent shall be less than 75 per centum and his certificate shall show what per cent the applicant has attained, and such certificate shall be valid only when signed by a majority number of the Examining Board. The Examining Board shall, immediately after the examination, furnish to each person who came before it to be examined a copy of all questions, whether oral or written, which were given at the examination, on printed slips of paper, which shall be marked solved right, imperfect or wrong as the case may be; together with a certificate of competency to each candidate who shall have at least 75 per centum.

Scope of examination.

Manner of examination.

Papers to be filed with secretary of state.

Oral examination on what subjects.

What books may be used.

Required average per cent for certification.

Certificate of qualifications.

Board to furnish each person who has been examined his markings on written slip.

Applications for Examinations—How Made.

Section 17. Applications to the said Board for exam-

ination for State Coal Mine Inspector must be made in writing and accompanied by an affidavit that the applicant is a citizen of the United States, a resident of the State of Montana, and that he has attained the age of thirty years; has had at least ten years experience in underground coal mining in the United States and at least one year's experience in underground coal mining in the State of Montana.

Application for examination and accompanying affidavit.

Selection by Governor.

Section 18. The Board of Examiners shall file with the Governor the names of all persons who shall have successfully passed the examination. From those so named the Governor shall select one person to be State Coal Mine Inspector, provided that any one who has served capably as State Coal Mine Inspector for one full term, upon making written application to the Board setting forth these facts, shall be certified to the Governor as properly qualified for appointment, but no man shall be eligible for the appointment as State Coal Mine Inspector, who has any pecuniary interest in any coal mine, either directly or indirectly, as owner, leasee, or employer, or otherwise.

Names to be filed by the board with the governor.

Board shall also certify to the governor as qualified one who has served capable as coal mine inspector for one full term.

Disqualification.

Vacancy in Inspectorship—How Filled.

Section 19. As often as vacancies occur in the office of State Coal Mine Inspector, caused either by death, resignation, removal for malfeasance or misfeasance as provided for in Section 14 of this Act or as otherwise determined as with other officers of the State, the Governor shall fill the same by appointment for the unexpired term by selecting a person whose name is on file in his office as provided for in Section 18 of this Act.

Governor shall fill vacancies from list of persons certified by the board to be qualified.

Meetings of Examining Board—Oath of Office.

Section 20. The Board of Examiners appointed under this Act shall each take the following oath of office before some person only authorized by law to administer an oath, We do solemnly swear or affirm that we will perform the duties devolving upon us to the best of our ability, and that in rejecting or recommending applicants for the position of State Coal Mine Inspector for the State of Montana we will be governed by the evidence of qualification to fill the position under the law creating the

Oath of office of members of the board.

Time and place
for holding meet-
ings of the board
to conduct exam-
inations.

Secretary of state
to furnish blanks,
books, stationery,
etc.

Notice of meeting
of the board to be
given when and
where.

At such meetings
the board shall
proceed to exam-
ine whom.

Shall certify to
the governor what
names.

Compensation and
expenses of the
board.

same, and not by any consideration of political affiliation or personal favors that we will certify all whom we may find qualified, and who shall have passed the required examination, according to the Act and none other, to the best of our knowledge and judgment. The Board shall meet for the purpose of examining applicants for the position of State Coal Mine Inspector on the second Monday in December, 1912, in the City of Helena, at the State Capitol in the office of the State Coal Mine Inspector, and on the second Monday in December every two years thereafter. The Secretary of State shall furnish whatever blanks, blank books, printing or stationery the Board may require in the discharge of its duties. Public notice of meetings of the Board for the purpose of holding examinations shall be given by the Board, by the posting of notices in the post office in the several coal mining towns throughout the State at least fifteen days previous to the date of the examination, and by publication in at least two daily papers published in the City of Helena, for ten consecutive days previous to the holding of the examination.

Examination—Certificate of Fitness.

Section 21. The Board shall then proceed to the examination of those who may present themselves as candidates for said office, and who shall have complied with the requirements necessary to entitle such applicant to be examined as provided for in Section 17 of this Act, and after a thorough examination as to knowledge and qualification of said applicants the said Board of Examiners shall certify to the Governor the names of all such applicants who have successfully passed the required examination for the position of State Coal Mine Inspector as required under the provisions of the law.

Compensation of Board of Examiners—Expenses.

Section 22. The Board of Examiners shall receive as compensation Six Dollars (\$6.00) per diem for the time not exceeding ten days actually engaged in the performance of the duties imposed upon them in this Act and their actual expenses, such compensation to be paid out of the General fund in the manner provided by law.

Appointment of Inspectors—How Made.

Section 23. The Governor shall, from the names certified to him by the said Board of Examiners, appoint a State Coal Mine Inspector for the State of Montana, who shall hold office for the period of time as required by the law creating such office.

Governor shall appoint state coal mine inspector.

Appointment of Examining Board.

Section 24. Every four years the Governor shall in the manner provided in Section 15 appoint a Board of Examiners to pass upon the qualification of applicants for Coal Mine Inspector, which Board shall be constituted, sworn and paid and shall perform the same duties as the Board provided for in Section fifteen (15) of this Act, during the term for which they were appointed, (and from the names certified to by them the Governor shall appoint a State Coal Mine Inspector for the State of Montana).

Board of coal mine inspectors shall be appointed every four years.

Reappointment of Inspector not Prohibited.

Section 25. Nothing in this Act be construed as preventing the reappointment by the Governor of any State Coal Mine Inspector, who shall have successfully passed the required examination and qualified as hereinbefore provided for.

Coal mine inspector may be re-appointed, when.

Examining Board May Adopt Rules.

Section 26. Each successive Board of Examiners shall have the power to adopt their own rules and regulations for examination as will best serve the purpose of this Act said rules not to conflict with the manner of examination as prescribed in Section sixteen (16) of this Act.

Rules and regulations of conducting examinations.

Vacancies in Examining Board—How Filled.

Section 27. Vacancies upon the said Board of Examiners shall be filled by the Governor, in accordance with the intent and provisions of this Act.

Vacancies in the board of examiners.

Board for Examination of Applicants for Position of Mine Foreman, Etc.

Section 28. On petition of the State Coal Mine Inspector a judge of the District Court of any County where coal is mined shall appoint an examining board of three persons, consisting of the State Coal Mine Inspector, a miner and an operator or superintendent, to be known as the County Examining Board. The members of said

County examining board: How appointed, and to consist of whom.

Qualifications.	Examining Board shall be citizens of the United States and legal residents of the State of Montana, and shall hold office for the term of two years or until their successors have been appointed and qualified. The persons so appointed shall, after being duly organized as a Board, take and subscribe before an officer authorized to administer the same, the following oath namely: We, the undersigned do solemnly swear or affirm that we will perform the duties of examiners of applicants for the position of mine foreman, mine examiner, or fire boss for the coal mines of Montana to the best of our abilities, and that in certifying or rejecting said applicants we will be governed by the evidence of the qualifications to fill the positions under the law creating the same, and not by any consideration of personal favors; that we will certify all whom we find qualified and none other.
Term of office.	
Official oath of members.	

Scope of Examination.

Scope of examination.	Section 29. The examination shall consist of oral and written questions on theoretical and practical mining on the nature and properties of noxious, poisonous and explosive gases found in the mines, and on the different systems of working and ventilating coal mines. During the progress of the examination the use of such text books as the Board shall approve shall be allowed applicants during the examination, and the Board shall issue to those examined, and found to possess requisite qualifications, certificates of competency for the position of mine foreman, mine examiner or fire boss; but such certificates shall be granted only to persons of twenty-three (23) years of age, or over, of good moral character, citizens of the United States and residents of the State of Montana, and with at least five years practical experience in the working of coal mines. All papers and blanks, blank books and stationery used at the examination, to be furnished by the Board of County Commissioners of the said County and each candidate for examination shall be given such questions, as are required, in writing and each question shall be on a separate paper. Candidates must return such papers to the Board, with answer to questions thereon, attested by his signature. All question papers and answers shall be filed in the office
What text books may be used.	
Certificates of competency to be issued to whom.	
Other required qualifications.	
Board of county commissioners to furnish board with what materials on examinations.	
Questions to be in writing on separate slips of paper.	
Questions and answers to be returned, signed.	

of the County Clerk and Recorder, in and for the County where examinations are held, and kept by him in some secure place, subject to examination at any time.

Question and answer papers to be filed where.

Certificates as Mine Foreman.

Section 30. Certificates of qualifications to mine foremen in the coal mines of Montana, shall be granted by the Board of Examiners herein provided for, to each applicant who shall have passed a successful examination showing his knowledge of mine workings, ventilation, gases, fire damp and his actual experience in underground coal mining. The certificates shall be in a manner and form as shall be prescribed by the State Coal Mine Inspector, who shall keep a record in his department of all such certificates granted. Each certificate shall contain the full name and age and birthplace of applicant and also the length or nature of his previous service in coal mines.

To whom, certificates of qualification as mine foreman shall be granted.

Form of certificate.

Qualifications for Mine Examiners.

Section 31. Persons seeking certificates of competency as Mine Examiner or fire boss must produce evidence satisfactory to the Board that they are citizens of the United States, residents of the State of Montana, have had at least five (5) years practical experience in working of coal mines, at least twenty-three (23) years of age, and of good repute and temperate habits. They must prepare to submit and satisfactorily pass an examination as to their experience in mines generating dangerous and explosive gases, their practical and technical knowledge of the nature and properties of fire damp, the laws of ventilation, and the structure and use of the safety lamp.

Qualifications of applicants for certificate as mine examiners or fire boss.

To pass satisfactory examinations on what subjects.

Examining Board Shall Grant Certificates.

Section 32. The said Board of Examiners shall meet at the call of the State Coal Mine Inspector, who shall call them upon receipt of five requests for examination and shall grant certificates to all persons whose examination shall disclose their fitness for the duties of mine foreman as above classified, or mine examiner or fire boss and such certificate shall be sufficient evidence of the holder's competency for the duties of said position so far as relates to the purpose of this Act; provided that any person who shall have been employed as Mine Foreman, continually for a period of one year preceding the

The county examining board shall meet call of the state coal mine inspector.

When call shall be made.

Shall grant certificates to whom.

Certificates shall be evidence of what.

To whom certificates shall be granted without examination.

What standard on examination required for certificate.

Issuing certificates to persons presenting proper certificates from other states or competent authorities.

Fee for issuing such certificates.

What required upon application for examination.

Affidavit and certificate of good character.

Fee to be paid before receiving examination.

Certificate fee.

Fees to be turned over to state treasurer.

approval of this Act, by the same firm, person or corporation, shall be granted a certificate without undergoing such examination, but shall not be employed by any other person, firm or corporation without having successfully undergone such examination. No person shall be certified as competent whose average percentage shall be less than seventy-five (75) per centum on his entire examination, and such certificate shall designate the position qualified for and shall be valid only when signed by a majority of the Examining Board.

Certificates May Be Issued to Those Holding Proper Certificates.

Section 33. The Board may exercise its discretion, in issuing certificates of any class, without examination, to persons presenting with proper credentials certificates for the same or a similar position issued by competent authorities in this or other States provided, however, that for every such certificate issued, the Board shall charge a fee of five (\$5.00) Dollars.

Applications for Examination—How Made—Fees.

Section 34. An applicant for examination for any certificate herein provided for, before being examined, shall register his name with the State Coal Mine Inspector, at Helena, Montana, and file with him the credentials required by this Act, to-wit: An affidavit as to all matters of fact establishing his rights to and qualifications for receiving the examination, and a certificate of good character and temperate habits, signed by at least ten (10) of the citizens who know him best in the place in which he lives. Each candidate, before receiving the examination, shall pay to the State Coal Mine Inspector the sum of two (\$2.00) dollars as an examination fee, and those who pass the examination for which they are entered, before receiving their certificate, shall also pay to the State Coal Mine Inspector the further sum of three dollars (\$3.00) each as a certificate fee. All such fees shall be duly accounted for by the State Coal Mine Inspector and turned into the State Treasurer at the close of the fiscal year.

Compensation of Examining Board.

Section 35. The members of the Examining Board except the State Coal Mine Inspector shall receive as a compensation the sum of five dollars (\$5.00) each day for a term not exceeding two meetings of five days each in any year, and whatever sum is necessary to reimburse them for such travelling expenses as may be incurred in the discharge of their duties. All such salaries and expenses of the members of the Board shall be paid upon vouchers duly sworn to by each member of the said Board and approved and ordered by the State Board of Examiners, and the State Auditor is hereby authorized to draw his warrants on the State Treasurer for the amount thus shown to be due, payable out of any money in the State Treasury not otherwise appropriated.

Compensation of county examining board and travelling expenses.

How and by whom paid.

Violations.

Section 36. (a) Any person who acts in the capacity of mine foreman, mine examiner or fire boss without a certificate of competency as provided for in this Act, shall be deemed guilty of an offense against this Act, provided, however, the State Coal Mine Inspector shall have the power to grant permits to persons to perform the duty of mine foreman, mine examiner or fire boss as provided for in this Act, who may be employed by any company, corporation, association, person or persons engaged in the operating of any coal mines in the State of Montana until such time as the persons so employed has had an opportunity to be examined as to his competency by the Board of Examiners provided for in this Act, but no longer.

Acting as mine foreman, mine examiner or fire boss without a certificate, guilty of an offense against this act.

Provided that state coal mine inspector may grant temporary certificates until when, in certain cases.

(b) Every company, corporation association, person or persons operating any coal mine or coal mines in the State of Montana, who employs any uncertified mine foreman, mine examiner or fire boss, except as provided for in Section 33 of this Act, shall be deemed guilty of an offense against this Act, provided, however, that in cases of emergency any competent man may be employed and act as a temporary mine foreman, examiner or fire boss until a certificate or permit can be obtained, not to exceed a period of thirty (30) days, without violating this Act or incurring any of its penalties.

Employing an uncertified mine foreman, mine examiner or fire boss an offense against this act.

Proviso, in case of an emergency.

Necessary to Have Maps of Coal Mines.

Maps and plans of coal mines.

Scale and other requirements of map and plan.

Section 37. Every operator of every coal mine in this State shall make or cause to be made an accurate map or plan of such mine, drawn to a scale of not less than two hundred feet to one inch, and as much larger as practicable, on which shall appear the name of the State, County and township in which the mine is located, the designation of the mine, the name of the Company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

Underground Survey.

What underground workings map shall show.

Section 38. For the underground workings the said map shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine, all excavations, entries, rooms and crosscuts, the rise or dip of the seam from the bottom of the shaft, mouth of drift or slope in either direction to the face of the workings, the location of the fan or furnace, the location of the permanent pumps, hauling engines, engine planes and firewalls, the location of any standing water which might prove a menace to life or danger to property from flood, and the line of any contiguous surface outcrop of the seam.

Map for Every Seam.

Map shall be made for each seam worked, showing what.

Section 39. A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam, which, after the passage of this Act, shall be worked in any mine, and the maps of all such seams shall show all shafts, drifts, tunnels, incline planes or other passage ways connecting the same.

Map of the Surface.

Surface map shall show what. May be separate if desired.

Section 40. Every such map or plan, or at the option of the operator a separate map, shall show the surface boundary lines contiguous to the workings and pertaining to each mine, also all section or quarter section lines and corners, town lots and streets, the tracts and side tracts of all railroads, the location of all wagon roads, rivers, streams, ponds, buildings, landmarks and principal objects on the surface within the said boundary lines; and in all cases if of a separate surface map the same

Surface maps shall be drawn on what, when separate.

shall be drawn on transparent cloth or paper so that it can be laid upon the map of the underground workings and thus truly indicate the relative location of the lines and objects on the surface to the excavations of the mine.

Copies of Maps for State Coal Mine Inspector.

Section 41. The original or true copies of all such maps shall be kept in the office at the mine, and true copies thereof shall also be furnished the State Coal Mine Inspector within thirty days after completion of the same. The maps so delivered to the Inspector shall be the property of the State and shall remain in the custody of the said Inspector during his term of office and be delivered by him to his successor in office. They shall be kept at the office of the Inspector and be open to inspection by all persons interested in the same, but such examination shall only be made in the presence of the Inspector and he shall not permit any copies of the same to be made without the written consent of the operator or owner of the property, under penalty of removal from office.

Annual Surveys.

Section 42. An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months, prior to July 1st of every year, and the result of said survey, with the date thereon, shall be promptly and accurately entered upon the original maps so as to show all changes in plain or new work in the mine and all extensions of the workings to the most advanced face or boundary of said workings which have been made since the preceding survey. The said changes and extensions shall be entered upon the copies of the maps in the hands of the State Coal Mine Inspector, or new copies thereof be furnished him, within thirty days after the last survey is made. Whenever the operator of any mine shall neglect or refuse, or for any cause not satisfactory to the State Coal Mine Inspector fail, for a period of three months, to furnish to the said State Coal Mine Inspector the map or plan of such mine, or a copy thereof or of the extension thereto, as provided for in this Act, the said State Coal Mine Inspector is hereby authorized to make or cause to be made an accurate map

Original maps, or true copies, to be kept in office at the mine and copy furnished the state coal mine inspector.

To be property of the state and remain in custody of inspector.

Kept at office of inspector and open to inspection to whom, in presence of inspector.

Not to permit copies to be made, except when.

When annual extensions of surveys of mines shall be made and entered upon the original maps.

What they shall show.

To be entered upon the copies of maps filed with state coal mine inspector, or new copies are to be furnished.

When operator of mine fails or refuses to furnish map and plans to state coal mine inspector.

Inspector to have survey and map made at cost of operator or owner.

Collection of cost.

or plan of such mine at the expense of the owner or leaser thereof, and the cost of the same may be recovered by law from said owner, leaser or operator in the same manner as other debts by suit in the name of the state.

Abandoned Mines.

Maps and surveys to be made before mine is abandoned or indefinitely closed.

Section 43. When any coal mine is worked out or is about to be abandoned or indefinitely closed the operator of the same shall make or cause to be made a final survey of all available parts of such mine, and the results of the same shall be duly extended on all maps of the mine and copies thereof, so as to show all excavations and the most advanced workings of the mine, and their exact relations to the boundary or section lines on the surface.

What map shall show.

When state coal mine inspector may order such surveys to be made.

The State Coal Mine Inspector may order a survey to be made of the workings of any mine which is about to be abandoned, or of which he has reason to believe the maps are inaccurate, whenever in his judgment the safety of the workmen, the support of the surface, the conservation of the property or the safety of an adjoining mine requires it. Such survey shall be paid for by the State.

Survey to be paid for by the state.

Mine Operators to Furnish Wash Houses for Employees.

Wash houses to be furnished for employees.

Section 44. It shall be the duty of the owner, operator or superintendent of any coal mine in the State of Montana to provide a suitable building, not an engine or boiler house, for the use of the persons employed in such mine for the purpose of washing themselves and changing their clothes when entering the mine and returning therefrom. The said building shall not be over 800 feet from and convenient to the principal entrance of such mine when practical to do so. When not practicable to build the wash house within the said distance and still conform to the other requirements of this section the State Coal Mine Inspector may give written permission to place the building at a greater distance from the mine than that herein specified and the operator shall not be guilty of violation of this section. The said building shall be maintained in good order, be properly lighted and heated and supplied with pure cold and warm water, and be provided with facilities for persons to wash and a suitable locker for each person to be used by him as a repository for his clothes.

Where wash houses to be placed.

Inspector may give permit to place wash houses elsewhere when.

How washhouses are to be maintained.

If any person shall maliciously injure or destroy or cause to be injured or destroyed, the said building or any part thereof, or any of the appliances or fittings used for supplying light, heat or water therein or doing any act tending to the injury or destruction thereof, he shall be deemed guilty of an offense against this Act and subject to a fine as hereinafter provided for.

Malicious injury or destruction of such buildings or appliances therein.

Oath of Weighman—Check Weighman.

Section 45. The weighman employed at any mine shall subscribe to an oath or affirmation before some officer authorized to administer oaths, to do justice between employer and employee, and to truly and correctly weigh the output of coal from the mines as herein provided. The miners employed by or engaged in working for any mine owner, operator or lessee of any mine in this State shall have the privilege, if they desire, of employing at their own expense a check weighman, who shall have like equal rights, powers and privileges in the weighing of coal as the regular weighman and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weight office, and any weigher of coal or person so employed, who shall knowingly violate any of the provisions of this section, or any owner, operator or agent of any coal mine in this State who shall forbid or hinder miners employing or using a check weighman as herein provided, or who shall prevent or wilfully obstruct any such check weighman in the discharge of his duty, shall be deemed guilty of an offense against this Act. Whenever the State Coal Mine Inspector, or his deputy, shall be satisfied that the provisions of this section have been willfully violated it shall be his duty to forthwith inform the prosecuting attorney of any such violation, together with all the facts within his knowledge and the prosecuting attorney shall thereupon investigate the charges so preferred, and if he is satisfied that the provisions of this section have been violated, it shall be his duty to prosecute the person or persons guilty thereof.

Oath of weighman.

Miners may employ check-weighman.

Rights, powers, privileges and oath of check weighman.

Oath to be posted where.

Other offenses against this act.

Duty of coal mine inspector and deputies regarding violations of section.

Duty of prosecuting attorney.

Must Not Use False Weights.

Section 46. Any person or persons having or using any scale or scales for the purpose of weighing the out-

Using false weights or arranging scales to weigh falsely forbidden.

put of coal at mines must not arrange or construct them so that fraudulent weighing may be done thereby, and must not knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed and reported in accordance with the provisions of this Act.

General Equipment of Shafts.

Section 47. Every hoisting shaft must be equipped with safely constructed substantial cages fitted to guide rails running from the top to the bottom of shaft. Said cages must be furnished with suitable boiler iron covers to protect persons riding thereon from falling objects and with sheet iron or steel casings on each side, not less than one-eighth inch in thickness, or wire netting of not less than one-eighth inch in diameter. They must be equipped with safety catches, said safety apparatus, whether consisting of eccentrics, springs or other devices, must be securely fastened to each cage and must be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. Every cage must be fitted with iron bars, chains or rings in proper place and sufficient in number to furnish a secure hand hold for every person permitted to ride thereon. Gates not less than four feet high from the bottom of the cage shall be fitted to each cage and must be used during the regular hoisting or lowering of men; provided that when such cage is used for sinking only it need not be equipped with such doors as are hereinbefore provided for. At the top landing cage supports, when necessary, must be carefully set and adjusted so as to act automatically and securely hold the cage when at rest.

Passage Way Around the Bottom of Shafts.

Section 48. At the bottom of every shaft and at every caging place therein a safe and commodious passageway must be cut around such landing place to serve as a travelway by which men or animals may pass from one side of the shaft to the other without passing under or on the cage.

Gates at the Top of Shaft.

Section 49. The upper and lower landings at the top of each shaft and the opening of each intermediate seam

Equipment of
hoisting shafts.

Equipment of
cages.

Safety clutches.

Hand holts

Gates on cages.

Cages used in
sinking.

Landing cage sup-
ports.

Passage ways
around landing
places.

from or to the shaft, shall be kept free and clear from loose materials and shall be securely fenced with automatic or other gates, so as to prevent either men or materials from falling into the shaft.

Landing places to be kept clear of loose materials and fenced with gates.

Two Places of Egress.

Section 50. For every coal mine in this state, whether worked by shaft, slope or drift, there shall be provided and maintained in addition to the hoisting shaft, slope or drift or other place of delivery a separate escapement shaft, slope or drift or opening to the surface, or an underground communication passageway between every such mine and some other contiguous mine, such as shall constitute two distinct and available means of egress to all persons employed in such coal mine. The time allowed for completing such escapement shaft or drift or making such connections with an adjacent mine, as is required by the terms of this Act shall be three months for shafts, slopes or drifts two hundred feet or less in depth or length, six months for shafts, slopes or drifts less than five hundred feet in depth or length and more than two hundred and twelve months for all other shafts, slopes or drifts or connections with adjacent mines. The time to date in all cases from hoisting of coal from main shaft, slope or drift.

Two or more places of egress to surface shall be maintained in every coal mine.

Time allowed within which such places of egress shall be constructed.

Unlawful to Employ More Than Ten Men.

Section 51. It shall be unlawful to employ at any one time more men than in the judgment of the State Coal Mine Inspector is absolutely necessary for speedily completing the connections with the escapement shaft, slope or drift or adjacent mine and said number must not exceed ten men at any one time for any purpose in said mine until such escapement connection is completed.

Number of men who can be employed until places of egress are completed.

Passageways to Escapement.

Section 52. Such escapement shaft or opening, or communication with an adjacent mine aforesaid, shall be constructed in connection with every seam of coal worked in such mine, and all passageways communicating with the escapement shaft or place of exit, from the main hauling ways to said place of exit, shall be maintained free of obstructions, at least five feet wide and five feet in height. Such passageways must be so graded and

Escapement shafts or other places of egress shall be connected with each seam worked and the same shall be kept free of obstructions.

Such passageways must be kept free of water.

drained that it will be impossible for water to accumulate in any depression or dip of the same, in quantities sufficient to obstruct the free and safe passage of men. At all points where the passageway to the escapement shaft or other place of exit is intersected by other road ways or entries, conspicuous signboards shall be placed indicating the direction it is necessary to take in order to reach such place of exit. Where pillars are being drawn on an entry outside of where other men are working, or where more than 50 per cent of the coal is taken out in rooms, connections for escapement shall be made with some adjoining entry to provide a safe exit for the men.

Signboards to be maintained at intersections.

Other exits required, when.

Distance of Escapement From Main Shaft.

Section 53. The distance between the main shaft and escapement shall not be less than one hundred feet where steel headframes are used, nor less than three hundred feet where wooden headframes are used, provided, that where slopes or drifts are driven in or on the coal strata, the distance between the escapement road or travelway and the slope drift or hauling way shall not be less than fifty feet.

Limit of distances of escapements from main shaft.

Buildings on Surface.

Section 54. It shall be unlawful to erect any inflammable structure or building in any space intervening between the main shaft, slope or drift and the escapement shaft, slope or drift on the surface, or any powder magazine in such location or manner as to jeopardize the free and safe exit of the men from the mine by said escapement shaft, slope or drift in case of fire in the main shaft, slope or drift buildings.

Inflammable structures not to be maintained between main shaft and other escapements.

Powder magazines not to be located where.

Stairway or Cages in Escapement Shaft.

Section 55. The escapement shaft at every mine which does not exceed one hundred feet in vertical depth shall be equipped with safe and ready means for the prompt removal of men from the mine in time of danger, and such means shall be a substantial stairway which shall be provided with handrails and with platforms or landings not more than ten feet apart. Where the escapement exceeds one hundred feet in vertical depth, in place of the stairway, it may be equipped with a cage for hoisting

Equipment of escapement shaft in rooms not deeper than one hundred feet.

Stairways, handrails and platforms.

men, and such cage must be suspended between guides and be so constructed that falling objects cannot strike persons being hoisted upon it. Such cage must be operated by steam or electricity which power shall be kept available for immediate use at all times and equipment of said hoisting apparatus shall include a depth indicator, a brake on the drum, a steel or iron cable and safety catches on the cage; and all such hoisting machinery must be inspected at least once each week by some competent person representing the operating company or owner.

In mines deeper than one hundred feet.

Cages.

Obstructions in Escapement Shaft.

Section 56. No accumulation of ice or obstruction of any kind shall be permitted in any escapement shaft, nor shall any steam be discharged into said shaft; and all surface or other water which flows therein shall be conducted by rings or otherwise, to receptacles for same so as to keep the stairway or cage free from falling water.

No obstructions to be permitted in shafts or steam discharged therein.

How surface waters to be managed.

Weekly Inspection of Escapements.

Section 57. All escapement shafts and passageways leading thereto or to the works of a contiguous mine must be carefully examined at least once each week by the mine foreman or by a man specially delegated by him for that purpose, and the date and findings of such inspection must be entered in a record book in the office at the mine. If obstructions are found their location and nature must be stated together with the date on which they were removed.

Weekly examinations of escapement shafts and passageways.

Record of inspection to be kept.

Communication With Adjacent Mines.

Section 58. When operators of adjacent mines have by agreement established underground communication between said mines as an escapement outlet for the men employed in both mines, the roadways to the boundary on either side shall be regularly patrolled once each week and kept clear of all obstructions to travel by respective operators, and the intervening door shall remain unlocked and ready at all times for immediate use. When such communication has once been established between adjacent mines, it shall be unlawful for the operator of either mine to close the same without the consent of the contiguous operator and the State Coal Mine Inspector;

Maintenance of escapements between adjacent mines and roadways.

Patrolling of roadways.

Intervening doors.

Communications not to be closed without consent of each owner and mine inspector.

Proviso: When one mine ceases operations.

provided, that when either operator desires to abandon mining operations the expense and duty of maintaining such communications shall devolve upon the party continuing operations and using the same.

Ventilation of Mines.

Ample means of ventilation to be provided and maintained.

One hundred feet per minute for each person and six hundred per minute for each animal.

Air required where fire damp exists.

Measurements of circulating air, when and where to be made.

Records to be kept.

In rooms generating fire damp.

When and where water gauge shall be maintained.

Section 59. The owner, operator or superintendent of every coal mine, whether operated by shaft, slope or drift, shall provide and hereafter maintain ample means of ventilation for the circulation of air through the main entries, cross entries and all other working places, to an extent that will dilute, carry off and render harmless the noxious or dangerous gases generated in the mine, affording not less than one hundred cubic feet per minute for each and every person employed therein, and not less than six hundred cubic feet per minute for each and every animal in the mine; but in any mine, or section of a mine, where firedamp is generated not less than one hundred and fifty cubic feet of air per minute shall be provided for each person or as much more as may be necessary to keep such section free from firedamp. The quantities of air in circulation shall be ascertained with an anemometer or other efficient instrument; such measurement shall be made by the foreman or his assistants once a week at the inlet and outlet airways, and also at or near the face of each entry, and shall be recorded in a book kept for that purpose at the mine office. The quantity of air as provided for in this Act for each person shall be conducted to each working place.

In rooms generating firedamp the volume of air required by this Act shall be conducted to the face thereof by the use of brattice cloth or other suitable means.

Pressure Guages.

Section 60. At each mine generating firedamp so as to be detected by a safety lamp a water guage for the purpose of recording the pressure or vacuum of the main air current shall be provided and maintained which shall be kept in constant use and records preserved subject to the inspection of the State Coal Mine Inspector or his authorized representative.

Number of Persons Permitted to Work in Same Air Current.

Section 61. The current of air in mines must be split or subdivided so as to give a separate current to a number not exceeding one hundred men at work, and the Inspector has the discretion to order a separate current for a smaller number of men if special conditions render it necessary.

Separate currents of air to different numbers of men.

Crosscuts and Brattices for Ventilation.

Section 62. Crosscuts between the entries, except where same are within the confines of shaft bottom pillars, shall be made not exceeding sixty feet apart, unless sufficient brattice is used to keep the air current up to the entry face in which case they shall not exceed one hundred feet apart. When there is a solid block on one side of a room, crosscuts shall be made between such room and the adjacent room not to exceed sixty feet apart; where there is a breast or group of rooms, a crosscut shall be made on one side or the other of each room, except the room adjoining said block, not to exceed fifty feet from the outside corner of the crosscut to the nearest corner of the entrance of the room and on the opposite side of the same room a crosscut shall be made not to exceed ninety feet from the outside corner of the crosscut to the nearest corner of the entrance of the room, and thereafter crosscuts shall be made not to exceed eighty feet apart on each side of the room. The required air current shall be conducted to the crosscut nearest the face of each entry or room.

Distances between cross-cuts.

When cross-cuts are to be constructed between different rooms.

Air currents to be conducted to what cross-cuts.

Brattices between permanent inlet and outlet airways shall hereafter be constructed in a substantial manner of brick, blocks, masonry, concrete or nonperishable material. Rooms must not be worked in advance of the ventilating current.

Brattices shall be constructed of what materials between permanent inlets and outlets.

Operation of Ventilating Fans; Furnaces, Etc.

Section 63. All ventilating fans, furnaces and any means in use to ventilate mines shall be kept in constant operation, day and night, in mines generating firedamp or where two shifts are being worked. Where no firedamp is generated, or only one shift is worked, the fan, furnace or other means of ventilation shall be started and

All ventilation fans and other means to be kept constantly in operation in fire damp mines.

Operation of means of ventilation in other mines.

Duty of mine foreman or officers in charge when ventilating fans are compelled to stop.

Attendants on ventilating furnaces.

Construction of air bridges or over casts.

Automatic closing of doors directing ventilation.

Attendant.

Room for attendant.

Attendant to remain at post of duty during working hours.

Where extra doors shall be employed.

kept running not less than two hours before the time to begin work. Should it at any time become necessary to stop the fan or other means of ventilation on account of accident or needed repairs to any part of the machinery, furnace or other means of ventilation connected therewith, or by reason of any unavoidable cause, it shall then be the duty of the mine foreman, or any official in charge, after first having provided as far as possible for the safety of the persons employed in the mine, to order said fan or other means of ventilation to be stopped so as to make the necessary repairs or to remove any other difficulty that may have been the cause of such stoppage. All ventilating furnaces in mines shall, for two hours before the appointed time to begin work and during working hours, be properly attended by a person employed for the purpose.

Over-casts, Air Bridges and Doors—How to be Constructed.

Section 64. In all mines, all main airbridges or over-casts built after the passage of this Act shall be constructed of masonry or other incombustible material of ample strength, or be driven through the solid strata. In all mines the doors used in guiding and directing ventilation of the mine shall be so hung and adjusted that they will close themselves, or can be supplied with springs or pulleys so that they cannot be left standing open, and an attendant shall be employed at all principal doors through which cars are hauled, for the purpose of opening and closing said doors when trips or cars are passing to and from workings, unless an approved self acting door is used. Necessary room shall be provided at each door so as to protect said attendant from being run over by the cars while attending to his duties, and persons employed for this purpose shall at all times remain at their post of duty during working hours. On every inclined plane, or where haulage is done by machinery, and where a door is used, an extra door shall be provided to use in case of necessity.

Underground Stables.

Section 65. Where livestock is kept underground the stables or stalls shall be separated from the main aircourse

by not less than twenty feet of solid strata or a solid wall of brick masonry or concrete, not less than twelve inches in thickness. The construction of the stable shall as far as possible, be free from all combustible material. No hay or straw shall be taken into the mine unless same be compressed into compact bales, and only from time to time in such quantities as will be required for two days' use. No greater quantity of hay or straw shall be stored in the mine or stable and when such is taken inside the mine it shall be taken to the stable at once and placed in a separate room provided therein for the same. The stable must be so placed that the air ventilating the same is returned immediately to the main outlet aircourse and not allowed to go further into the mine to where men are working. The connections between the air-courses and the stables must be fitted with substantial doors, placed so that they can be readily reached in the event of fire in the stable. Where conditions prohibit the use of entirely incombustible material in the construction of the stable the doors leading to or from the same shall be made of iron or steel plate, not less than one quarter inch in thickness, set in masonry or concrete walls. The lights used in the stable shall be incandescent lamps placed so that same will not be injured by the stock or the persons required to enter the stable, or lanterns of railroad type suitable for using lard or signal oil, and only such oil shall be used therein. All refuse and waste shall be promptly removed from the stable in the mine and shall not be allowed to accumulate.

Stables constructed underground after the passage of this Act shall be located not nearer than one hundred and fifty feet to any opening to the mine used as a means of ingress or egress.

Precautions When Approaching Abandoned Workings.

Section 66. Whenever any working place of a mine approaches within one hundred feet of the abandoned workings of another mine as indicated by an accurate survey, or while driving any working place parallel with the workings of such abandoned mine within one hundred feet thereof, and such abandoned mine cannot be explored or when same contains firedamp or water which

Stable and stalls to be kept separate from main aircourses.

Construction of Stables.

Hay and straw.

Ventilation of stables.

Stable aircourse to be fitted with substantial doors.

When doors must be of iron or steel plate.

Lights in stable.

Lamp oil.

Removal of stable refuse and waste.

Location of stables.

Drill holes to be advanced in working places approaching certain abandoned mines within one hundred feet.

may inundate such working place, the mine foreman shall not permit such working place to be advanced until a drill hole has been extended not less than twelve feet in the centre of such working place and a flank hole not less than twelve feet extended on each rib, starting at the working face after taking out each cut of breaking.

Whenever the limits of an abandoned mine are not known by actual survey the above rule shall apply whenever any working place approaches within two hundred feet of the supposed limits of such abandoned mine.

Working places approaching abandoned mines not known by actual survey.

Timber and Supplies.

Supplies of timbers required to be constantly kept on hand.

Section 67. The operator of any mine shall keep an adequate supply of suitable timber constantly on hand, and deliver to the working place of each miner the props of approximate length, caps and other timbers necessary to securely prop the roof thereof. Such props, caps and other timbers shall be delivered in mine cars at the point where the miner receives his empty cars or unloaded at the entrance to the room.

How and when caps, props and other timbers to be delivered.

Hauling Roads.

Size of clearance required on all hauling roads or entries where power is used.

Section 68. On all hauling roads or entries on which the hauling is done by machinery, where men have to pass to or from their work, and on all entries on which the hauling is done by draft animals, there shall be a clearance on one side of at least two and one-half feet between the car and the rib of such entry. This place shall be kept free from all obstructions and no material shall be placed thereon. In mines already opened prior to the passage of this Act where such clearance does not exist, or in mines where mining conditions prohibit the driving of entries wide enough to give such clearance, places of refuge must be cut in the side wall at least three feet wide, two and one-half feet deep, five feet high and not more than twenty yards apart, but such places of refuge shall not be required in entries from which rooms have been driven at regular intervals not exceeding twenty yards. All such places of refuge must be kept clear of obstructions and no material shall be stored nor allowed to accumulate therein.

Clearance to be kept unobstructed.

Where places of refuge must be cut, and size thereof.

To be kept unobstructed.

Airways.

Section 69. It shall be the duty of the owner, lessee or

operator of every coal mine to provide and maintain airways of sufficient dimensions and in no case shall the area of the aircourse be less than twenty-five feet in mines operated on the room and pillar system.

Dimensions of airways and duty of owners and operators.

Drainage, Traveling Ways.

Section 70. Standing or stagnant water shall not be allowed to remain in travelling ways, nor shall the intake airways be used by miners or other persons as a depository for excrement or any other refuse. Obstructions of any kind must not be placed in crosscuts, rooms or entries used as main airways. Where necessary to provide a travelling way other than the main entries, slope or drift in any mine for men going to or returning from their work, the same shall be kept clear from debris or obstructions of any kind, and all loose coal, slate and rock overhead or in rib in travelling ways, where miners have to travel to or from their work, must be taken down or carefully secured.

Traveling ways and intake of airways; drainage and clear of filth.

Obstructions in crosscuts or rooms or entries in airways forbidden.

Traveling ways to be kept unobstructed, and loose coal and rock overhead removed.

Examination by Foreman.

Section 71. All main airways or travelling ways in any underground workings shall be examined at least twice a week by the mine foreman or some other competent person so directed by said mine foreman and a record of such inspections shall be kept at the mine office.

Mine foreman shall examine twice per week, what.

Record of inspection to be kept.

Removal of Combustible Matter.

Section 72. It shall be the duty of the mine foreman or his assistant in charge of any coal mine where coal dust or any other inflammable material may accumulate to cause the same to be properly saturated with water or with some compounds or chemicals used for such purpose as often as necessary in either aircourses or entries, or all accumulated matter, explosive in its nature, shall be removed from the mine.

Coal dust and other inflammable matter to be kept saturated.

Mine Foreman and His duties.

Section 73. In order to secure efficiency in the coal mines the operator or superintendent shall employ a competent and practical foreman; said mine foreman shall have passed an examination and obtained a certificate of competency as required by this Act, and said mine fore-

Competent and practical mine foreman must be employed.

Duties of foreman.

man shall devote the whole of his time to his duties at the mine when in operation.

Inspection and duties of mine foreman and deputies.

The mine foreman or his assistant shall visit and examine every working place in the mine at least each alternate day while the miners of such places are or should be at work and shall examine and see that each working place is secured by timbering so that the safety of the mine is assured; he shall see that a sufficient supply of timbers and material is always on hand at the working places in compliance with this Act.

When substitute for mine foreman shall be appointed.

When the mine foreman is personally unable to carry out the requirements of this Act as pertaining to his duties, on account of sickness or of other unavoidable conditions, a competent person shall be appointed to act in his place. The said person so appointed shall possess a certificate of competency, either as mine foreman or mine examiner as provided for in this Act, or shall receive a permit to act as such from the State Coal Mine Inspector's office within thirty days after taking charge.

Qualifications of substitute.

Duties of mine foreman and assistants regarding unsafe places.

Whenever such mine foreman, his assistant or assistants, shall have an unsafe place reported to him or them, he or they shall order and direct that the same be placed in a safe condition and until such is done no person or persons shall enter such unsafe place except for the purpose of making it safe.

Mine Examiners and Their Duties.

What coal mines shall require a mine examiner.

Section 74. A mine examiner shall be required at all coal mines generating dangerous and explosive gases.

Duties of mine examiner.

His duty shall be to visit the mine before the men are permitted to enter it and, first, he shall see that the air current is travelling in its proper course and quantity. He shall inspect all places where men are expected to pass or to work and observe if there are any recent fall or obstructions in rooms and roadways or accumulations of fire damp or other unsafe conditions.

Must mark date of his inspections on face of coal.

He shall especially examine the edges and accessible parts of recent falls and old gobs and aircourses. As evidence of such examination he shall mark with chalk upon the face of the coal his initial and the date of the month and year; if there is any standing gas discovered he shall leave a danger signal across every entrance to such place.

He shall make a report on a blackboard provided on the outside of the mine, or at some other convenient place, for that purpose and arranged so that the men can inspect it while passing to their work showing the conditions of the mine as to the presence of fire damp, and indicating the place or places where present if any is present, before he permits any person or persons to enter the mine. He shall complete his inspection before the time for the day shift men to go to work and shall personally check each miner or loader into the mine, advising each as to the condition of his working place and holding back any man whose working place is in dangerous condition. He shall return to the mine with such miners or loaders thus held back and remain there attending to the removal of any standing gas.

Shall post on blackboard the condition of the mine.

When inspection to be completed.

Checking men and warning them.

Removal of standing gas.

He shall examine parts of the mine not in actual course of working and available, not less than once each three days. He shall see that every part of the mine is kept free from standing gas and all old workings are properly fenced off. He shall examine the mine on idle days and Sundays if any men are required to work in any part of it, and, if any time elapse between the day turn leaving and night turn starting, the places to be worked by night turn must be examined by him with a safety lamp and reported safe before persons go to them. He shall make a daily record of the conditions of the mine as he has found them, in a book kept for that purpose, which shall be preserved in the office of the company. No miner or loader, when advised by the mine examiner that his working place is dangerous, shall leave the bottom of the shaft or the main partings on slopes or drifts until accompanied by the mine examiner.

Examinations of other parts of mine, and when examinations shall be made.

To make daily records.

Safety Lamps.

Section 75. At any mine where firedamp or other explosive gases are being generated so as to require the use of safety lamps in any part thereof the operator of such mine, upon receiving notice from the State Coal Mine Inspector or the mine examiner that one or more lamps are necessary to the safety of the men in such mine, shall at once procure and keep for use such number of the most improved safety lamps as may be necessary.

When safety lamps shall be furnished, and number thereof.

Lamps the property of owner or operator.

Lamps to be locked.

Where none but safety lamps shall be used.

Only authorized person to have keys to safety lamps.

No lucifer matches or other lights to be taken into such mines.

Blasting in gas bearing mines.

Regulating the taking and handling of explosives in mines.

All safety lamps used for working therein shall be the property of the operator and shall remain in the custody of the mine foreman or other competent person, who shall clean, trim and fill, examine and deliver the same, locked and in safe condition, to the men when entering the mine, and shall receive the same from the men at the end of their shift. Persons using such lamps shall be responsible for the conditions and proper use of safety lamps while in their possession.

Only Safety Lamps to Be Used.

Section 76. In every working approaching any place where there is likely to be an accumulation of explosive gases, or in any working where danger is imminent from explosive gases, no light or fire other than a locked safety lamp shall be allowed or used.

Keys for Safety Lamps.

Section 77. No one except a duly authorized person shall have in his possession a key or other contrivance for the purpose of unlocking any safety lamp in any mine where locked safety lamps are used. No lucifer matches or any other apparatus for striking light shall be taken into said mine or parts thereof.

Firing of Blasts Where Safety Lamps are Used.

Section 78. In any mine where locked safety lamps are used no blast shall be fired in such portion of the mine except by permission of the mine foreman or his assistants, and before a blast is fired the person in charge must examine the place and adjoining places and satisfy himself that it is safe to fire such blast before such permission is given.

Storing of Explosives in Mines.

Section 79. No workman shall have at any time more than one twenty-five pound keg of black powder in the mine nor more than five pounds of highly explosives. Every person who has powder or other explosives in a mine shall keep it or them in a wooden or metallic box or boxes, securely locked, and said boxes shall be kept at least five feet from the track and no two powder boxes shall be kept within twenty-five feet of each other nor shall black powder and high explosives be kept in the same box.

Manner of Handling Explosives.

Section 80. Whenever a workman is about to open a box or keg containing powder or other explosives and while handling the same he shall place and keep his lamp at least five feet distance from such explosive, and in such position that the air current cannot carry sparks to it, and no person shall approach nearer than five feet to any open box containing powder or other explosives with a lighted lamp, lighted pipe or other thing containing fire.

Precautions to be observed in opening and handling powder.

Copper Tools.

Section 81. In the process of charging and tamping a hole, no person shall use an iron or steel pointed needle. The needle used in preparing a blast shall be made of copper and the tamping bar shall be tipped with at least five inches of copper. Some soft material must always be placed next the cartridge or explosive.

Charging and tamping powder: Copper tools to be used.

System of Blasting.

Section 82. A workman who is about to explode a blast with a squib shall not shorten the match, saturate it with oil, or ignite it except at the extreme end; he shall see that all persons are out of danger from probable effects of such shots, and shall take measures to prevent any one from approaching by shouting "Fire" immediately before lighting the fuse or squib.

Manner of firing blasts.

When firing shots in close proximity to other workmen on rib or in crosscut driven for air or other purposes, he or they, firing such shots, shall notify in person or by signals the workmen in adjoining rooms or other place or entry.

Notices and signals of firing to be given when.

When a squib is used and a shot misses fire no person shall return until five minutes shall have elapsed. When a fuse is used and a shot misses fire no person shall return until one hour for each foot of fuse shall have elapsed. When it is necessary to tamp dynamite, nothing but a wooden tamper shall be used.

When shot misses, can be approached when.

Tamping dynamite.

No hole shall be drilled to a greater depth than the cut or shearing, neither shall fine coal, coal dust or any combustible material be used for tamping any hole.

Drilling and tamping holes.

No workman shall put off any blast in any mine known as a "following shot."

"Following shot."

At all coal mines the firing of shots shall be restricted

Shots to be fired at end of shift, except when.

Time, rotation and signals for firing.

Roof to be examined and secured after shots.

Securing draw-slate.

Disposition of fine coal and coal dust.

More rules for firing shots.

Each miner shall examine his working place before commencing work.

If place found to be dangerous he shall cease work and report it to foreman.

To leave warning at place found dangerous.

Each miner to prop roof in his working place and obey orders of the superintendent relative thereto.

to a specific time at the end of each shift, except that in entries, slants and doom necks, when necessary, one snubbing shot may be fired in each at the middle of the shift. No miner shall fire a shot until the time appointed for him to do so and then only in such rotation as designated by the proper authority. After each blast he shall exercise great care in examining the roof and coal and shall secure them safely before beginning to load coal. Where shooting is done by shift work the same precaution shall be used by some person or persons designated by the operator.

When drawslate is over the coal the miner shall not go underneath the drawslate until it is made safe from falling by securely posting it, and he shall not remove the posts until the coal is removed and he is ready to take down the drawslate. He shall not place in the gob or refuse pile any fine coal or coal dust but shall load same into cars. When more than one shot is to be fired at the same time with fuse, in the same working place, different lengths of fuse shall be used so as to prevent any possibility of the shots going off simultaneously.

Care of Working Places.

Section 83. Each miner shall examine his working place upon entering the same and shall not commence to mine or load until it is made safe. He shall be very careful to keep his working place in safe condition at all time.

Should he at any time find his place becoming dangerous from any cause or condition, to such an extent that he is unable to take care of the same personally, he shall at once cease work and notify the mine foreman, or his assistant as provided for hereinbefore in this Act, of such danger, and upon leaving such place he shall place some plain warning at the entrance thereto to warn others from entering into said danger and he shall not return to his place until ordered to do so by the mine foreman or his assistant. Each miner, or other person employed in a mine, shall securely prop the roof of the working place therein under his control, and shall obey any order or orders given by the Superintendent or mine foreman relating to the width of his working place or safety of the

same. Such miner or other person shall not be held to have violated the provisions of this section if the owner, lessee, agent, superintendent or mine foreman fail to supply the necessary props, caps, timbers or necessary material as provided for in this Act.

When not to be held guilty of violation of this act.

Each miner or other person shall avoid waste of props, caps, timber or other material. When he has props, caps, timber or other material unsuited for his purpose he shall not cover them up or destroy them but shall place same near the track where they can be readily seen.

Preservation of timbers, props, and materials by miner.

Duties of Machine Men.

Section 84. Machine runners and helpers shall use care while operating mining machines. They shall not operate a machine unless the shields are in place and shall warn all persons not engaged in the operating of a machine of the danger in going near a machine while in operation, and shall not permit such persons to remain near the machine while in operation. They shall examine the roof of the working place and see that it is safe before starting to operate the machinery. They shall not move the machine while the cutter chain is in motion.

Duties of persons operating machines.

Examination of roof.

Not to move machines when.

When connecting the power cable to electric wires they shall make the negative or grounded connections before connecting to the positive and, when disconnecting the power cable, shall disconnect from the positive line before disconnecting the negative, or grounded. When positive feed wires extend into rooms they shall connect such wires to the positive wire on the entry before connecting the power cable and as soon as the power cable is disconnected shall disconnect such wire from the wire on the entry. They shall use care that the cable does not come in contact with metallic rails of the track and shall avoid, where possible, leaving the cable in water. If any machine men remove props which have been placed by the miner for the security of the roof, they shall reset such props as promptly as possible.

In making electrical connections.

Disconnecting.

Connecting and disconnecting positive feed wires.

Other duties.

Duties of Motormen, Trip Riders and Drivers.

Section 85. Motormen and trip riders shall use care in handling the motors and cars and shall see that signals or markers, as provided for, are used as provided, and shall be governed by the speed provided for in this

Duties of motormen and trip riders.

Motors to be run ahead.

Not to permit riding on motor cars, when.

Duties of drivers.

Doors used in directing ventilation to be closed.

Firedamp producing mines not to be entered until when.

Must not pass beyond danger signal.

Persons ordered out not to re-enter until when.

Caution boards and danger signals not to be removed except by mine inspector.

Survey reference marks and monuments not to be erased or changed.

Nor change dates made by examiner in mine, or checks on cars.

Pipes and other things on fire not to be taken in mine.

Other things forbidden.

Act in handling cars. They shall not run the motors with the trolley ahead of the motors, except in case where they cannot do the alternative, and then only at a speed of two miles an hour. They shall warn persons forbidden to ride on the motors or cars, and shall not permit such persons to ride on motors or cars contrary to the provisions of this Act.

Drivers shall use care in handling cars, especially when going down extreme grades and at junction points.

Motormen, trip riders and drivers in charge of haulage trips passing through doors used as a means of directing the ventilation, shall see that such doors are closed promptly after the trip passes through.

Duties of Other Employees.

Section 86. No person shall enter a mine generating firedamp so as to be detected by a safety lamp until the mine examiners make a report on the blackboard for that purpose as hereinbefore provided for in this Act.

No person, unless accompanied by the mine examiner, shall go beyond a danger signal until all standing gas discovered has been removed or diluted and rendered harmless by a current of air. Any person being ordered to withdraw by the mine foreman or mine examiner from the mine on account of the interruption of the ventilation shall not re-enter the mine until given permission to do so by the mine foreman.

No person other than the mine examiner shall remove any caution board or danger signal placed at the entrance to any working place or at the entrance to any old workings in a mine.

No person shall erase or change a mark of reference or monument made in connection with a measurement; change marks or dates or any caution board, or erase or change the dates at room or entry face, when made by the mine examiner; change the checks on cars, wrongfully check a car or do any act with intent to defraud. No person shall take a lighted pipe or other thing containing fire, except lanterns as provided for in this Act, into any underground stable or barn.

No person shall place refuse in or obstruct any airway or breakthrough used as an airway. No workman

or other person shall injure a water gauge, barometer, aircourse, brattice equipment, machinery or live stock; obstruct or throw open any airway; handle or disturb any part of the machinery of the hoisting engine of a mine; open a door of a mine and neglect to close it; endanger the miners or those working therein; disobey an order given in pursuance of law, or do a wilful act whereby the lives and health of persons working therein or the security of a mine or machinery connected therewith may be endangered.

Persons Permitted to Ride on Haulage Trips.

Persons, only, who are permitted to ride on haulage trips.

Section 87. No person or persons except those in charge of trips, superintendents, mine foremen, mine examiners, electrician, mechanics and blacksmiths, when required by their duty, shall ride on haulage trips, except where by mutual agreement in writing between the superintendent or agent and the employees a special trip of empty cars is run for the purpose of taking employees into or out of the mine, or empty cars are attached to loaded trips, which shall not be run at a speed exceeding six miles per hour.

Employees Shall Not Loiter Nor Use Intoxicants Around the Mine.

Section 88. Each employe of a mine shall go to or from his place of duty by the traveling ways provided; shall not travel around the mine or the buildings, where duty does not require, and when not on duty shall not loiter at, in or around the mine, the buildings or machinery connected therewith, except by permission of the owner, lessee, operator, superintendent or foreman.

Employees to use traveling ways provided, and not to loiter around the mines.

No person shall go into or around a mine, the buildings or the machinery connected therewith, while under the influence of intoxicants. No person shall use, carry or have in his possession, at, in or around a mine, the buildings or the machinery connected therewith, any intoxicants.

Drunken persons to be kept away.

Intoxicants not to be used or had around the mine.

Top and Bottom Men.

Section 89. At every shaft, operated by steam or other power, the operator must station at the top and the bottom of such shaft a competent man, charged with the duty of attending to signals, preserving order and enforc-

A competent man to be placed at top and bottom of shaft, when.

ing rules, during the carriage of the men on cages.

Lights on Landings.

When sufficient lights shall be maintained at cage or car landings.

Section 90. Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men leave or take the cage, car or cars is at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly. Lights shall also be maintained at each landing and the bottom of all shafts while men are at work underground.

Regulations for Hoisting or Lowering of Men.

Regulations for hoisting or lowering men.

Section 91. Cages in shafts, or cars in any slope, on which men are riding shall not be lifted or lowered at a rate of speed greater than six hundred feet per minute.

Speed of cage or car.

Limit of number on car.

No more than twelve (12) persons shall ride on any cage or car at any one time except where specially constructed man cars are used on a slope.

Things forbidden in cage or car when men are being hoisted or lowered.

No person shall carry any explosives, tools, timber or other material with him on a cage, car or cars in motion, in any shaft or any slope or incline plane while the men are being hoisted or lowered, except for use in repairing the shaft, slope or incline plane.

Requirements in cages.

No cage having an unstable or self dumping platform shall be used for the carriage of men or materials unless the same is provided with some device by which the platform can be securely locked, and unless it is so locked whenever men or materials are being conveyed thereon.

Duty of rope rider.

The rope rider on any slope or incline plane shall, during working hours, see that all ropes and signals are in perfect working order, and, if he perceives anything wrong, he shall at once report the same to the mine foreman or his assistant.

Other duties of rope rider.

He must be cautious when men are being hoisted out of or lowered into any slope and shall see that all safety appliances are properly attached and that all cars are securely coupled. He shall pay strict attention to all signals.

To prevent more than twelve on a car or cage.

When more than twelve persons get on a cage or on one car on a slope or incline plane, except as above provided for, the bottom man, top man, or rope rider in

charge of the lowering and hoisting of such persons shall order a sufficient number to get off to reduce the number to twelve persons on the cage or car, and the person or persons so ordered shall immediately comply.

The car or cars used to hoist or lower men into or out of any slope or on any plane shall be connected by safety chains, or some safety appliance must be used to maintain the trip in case of breakage of coupling or other connection.

Safety appliances on cars.

Rights of Men to Come Out.

Section 92. Whenever men who have finished their days work, or who have been prevented from further work for any cause, shall come to the bottom of any shaft to be hoisted out, a cage shall be given them for that purpose, unless there is an available exit by slope or stairway in an escapement shaft, and providing there is no coal at the bottom to be hoisted. Whenever the designated number of persons for a cage load shall arrive at the bottom of the shaft in which persons are regularly hoisted or lowered they shall be furnished with an empty cage and be hoisted.

When the cage shall be given to men through work or prevented from work by any cause.

Stretchers, Blankets, Etc.

Section 93. At every mine where men are employed underground it shall be the duty of the operator thereof to keep always on hand and at some readily accessible place a properly constructed stretcher, a woolen and waterproof blanket, and roll of bandages, in good condition and ready for immediate use, for binding, covering and carrying anyone who may be injured at the mine; also to provide a comfortable apartment near the mouth of the mine in which any one so injured may rest while awaiting transportation home, and to provide for the speedy transportation of any one injured in such mine to his home. When more than one hundred and fifty men are employed in any one mine two stretchers, two woolen and two water proof blankets, with a corresponding supply of bandages, shall be provided and kept on hand. There shall also be provided and kept in store a suitable supply of linseed or olive oil for use in case men are burned by an explosion or otherwise.

Equipments for injured men required to be kept at mine.

Apartment for injured men.

Transportation of injured men to their homes.

Amount of supplies and equipments to be kept for injured men in large mines.

Oils to Be Used in Coal Mines.

Standard of illuminating oils which may be used in coal mines.

Proviso.

Section 94. (a). No person, firm or corporation shall compound, sell or offer for sale, for illuminating purposes in any coal mine, any oil other than oil composed of not less than eighty-four percent of pure animal or vegetable oil, or both, and not more than sixteen per cent pure mineral oil, the gravity of such animal or vegetable oil shall not be less than twenty-one and one-half and not more than twenty-two and one-half degrees Baume scale measured by Tagliabue or other standard hydrometer, at a temperature of sixty degrees Fahrenheit; the gravity of such mineral oil shall not be less than thirty-four and not more than thirty-six degrees Baume scale, measured by Tagliabue or other standard hydrometer, at a temperature of sixty degrees Fahrenheit, and gravity of the mixture shall not exceed twenty-four degrees Baume scale, measured by Tagliabue or other standard hydrometer, at a temperature of sixty degrees Fahrenheit. It is provided, however, that any material that is as free from smoke and bad odor, and of equal merit as an illuminant as pure animal or vegetable oil, may be used at the pleasure of mine operators and miners.

Markings and labels required upon each package containing illuminating oils sold or shipped for such purposes.

(b) Each person, firm or corporation compounding oil for illuminating purposes in a coal mine or mines, shall, before shipment thereof is made, securely brand, stencil or paste upon the head of such barrel or package, a label which shall have plainly printed, marked or written thereon the name and address of the person, firm or corporation compounding the oil therein contained, the name and address of the person, firm or corporation having purchased same, the date of shipment, the percentage and gravity in degrees Baume scale, at a temperature of sixty degrees Fahrenheit, of each of the competent parts of animal, vegetable and mineral oil contained in the mixture, and the gravity in degrees Baume scale of the mixture, at a temperature of sixty degrees Fahrenheit.

Requirements of labels.

Each label shall have printed thereon, over the facsimile signature of the person, firm or corporation having compounded the oil, the following: "This package contains oil for illuminating purposes in coal mines in the State of Montana, and the composition thereof as shown herein is correct."

(c) No person, firm or corporation shall sell or offer for sale any oil for illuminating purposes in any coal mine unless the barrel or package in which such oil was received bears the label of the compounder as provided in this Act.

Illuminating oils shall not be sold for use in coal mines without the required label.

Each person, firm or corporation selling or offering for sale any oil for illuminating purposes in any coal mine, shall, upon request of the State Coal Mine Inspector, or of any officer or duly authorized agent of any owner or lessee of a coal mine located within five miles of the point where such oil is offered for sale, or of any coal miner, submit such oil for examination, and upon request give a sample of such oil from one or more original containers selected by such inspector, officer, agent or miner for the purpose of making a test thereof.

When dealer shall submit oils for inspection and tests.

(d) No person shall adulterate any oil, either before or after taking same from original containers, and shall not alter, transfer or re-use any label placed upon any container.

Adulterations of oils forbidden.

(e) No person shall use for illuminating purposes in any coal mine any oil other than oil specifically provided for in this Act. Each person while in a coal mine shall, upon request of the Inspector of mines or any officer or duly authorized agent of the owner or lessees, submit his lamp and supply of oil for examination and upon request give sample of oil for purpose of making test thereof, and state from whom purchased.

Other illuminating oils not to be used.

Lamps and supplies of oil to be supplied.

The provisions of this Act relating to compounding, sale and use of oil for illuminating purposes in coal mines shall apply to oil used in lamps for open lights only, but do not apply to drivers, rope riders or motor men while acting in such capacity. The oil used in safety lamps may be of such composition as will best serve the purpose.

In what lamps oil compounds provided for in Act required to be used.

Boundary Lines.

Section 95. In no case shall the workings of a coal mine be driven nearer than ten feet to the boundary line of the coal rights pertaining to said mine, except for the purpose of establishing connecting workings between properties owned by the same person or an underground communication between contiguous mines as provided for elsewhere in this Act.

Boundary lines not to be approached nearer than ten feet except when.

Notice to Inspectors.

When notice to be given to State Mine Inspector.

Section 96. Immediate notice must be conveyed to the State Coal Mine Inspector by the operator interested:

Accidents.

First: Whenever an accident occurs whereby any person receives serious or fatal injury:

Work commenced to sink shaft.

Second: Whenever work is commenced to sink a shaft, slope or drift, either for hoisting or escapement purposes:

When mine is to be abandoned.

Third: Whenever it is intended to abandon any mine or to reopen any abandoned mine:

Appearance of large bodies of firedamp.

Fourth: Upon the appearance of any large body of fire damp in mine, whether accompanied by explosion or not, and upon the occurrence of any serious fire within the mine or on the surface around the mine.

Serious fires.

Works approaching abandoned mine.

Fifth: When the workings of any mine are approaching near any abandoned mine believed to contain accumulation of water or gas.

Accidental closing or intended abandonment of escapements.

Sixth: Upon the accidental closing or intended abandonment of any regularly established passageway to an escapement outlet.

Duty of Inspectors.

Duty of State Coal Mine Inspector in case of serious accidents.

Section 97. When advised by an operator of any accident in a coal mine involving loss of life or serious personal injury the State Coal Mine Inspector shall, if he deem it necessary from the facts reported, and in all cases of loss of life, immediately go to the scene of said accident or send some competent person authorized by him. It shall, moreover, be the duty of every operator of a coal mine, or his agent, to make and preserve for the information of the Inspector, upon uniform blanks furnished by the said Inspector, a record of all injuries sustained by any employees in the pursuance of their regular occupation.

Duty of operator in such cases.

State Coal Mine Inspector may make other investigations.

The State Coal Mine Inspector may also make any original or supplementary investigation which he may deem necessary as to the nature and cause of any accident within his jurisdiction and shall make a record of the circumstances attending the same and of the result of his investigations for preservation in the files of his office.

To make and preserve records.

Powers in making investigation.

To enable him to make such investigation he shall have the power to compel the attendance of the witnesses and to administer oaths or affirmations to them, and the

cost of such investigation shall be paid by the County in which such accident has occurred in the same manner as the cost of coroner's inquest is paid.

Cost of investigations.

Coroner's Inquest.

Section 98. If any person is killed by any explosion or other accident, the operator must also notify the coroner of the County, his authorized deputy or, in the absence of either or in the inability of either to act, any justice of the peace of said County for the purpose of holding an inquest concerning the cause of such death. At such inquest the State Coal Mine Inspector, his deputy or authorized representative shall offer such testimony as he may be possessed of, and he may question or cross question any witness appearing in the case, and the owner, agent or manager of the coal mine, either in person or by counsel, shall also be at liberty to examine or cross examine any witness at any such inquest.

Operator to notify County Coroner in case of accidental death, or in his absence a justice of the peace.

Duty of Coal Mine Inspector at such inquest.

Conducting inquest.

Any person having personal interest in or employed in the management of the mine in which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or sit on the jury; nevertheless, when possible, one third of the jurymen shall be miners.

Interested persons and managing employees not to act as jurors.

Duty of Constable or other officer.

Miners on jury.

Unless the State Coal Mine Inspector, or some person authorized by him, is present at an inquest held upon the body of any person, where death may have been caused by any such accident, the coroner shall adjourn the same and, by written notice or telegram delivered or sent to the State Coal Mine Inspector at least two days before holding the adjourned inquest, give notice of the time and place of the holding of the same. Before such adjournment the coroner, his authorized deputy or the justice of the peace, may take evidence to identify the body and order the interment thereof.

Adjournment of inquest when State Coal Mine Inspector or some person authorized by him is not present.

Notice to Inspector.

Code of Signals at Coal Mines.

Section 99. At any coal mine operated by shaft more than one hundred feet in depth, or by slope, the manner of signalling to and from the bottom man, the top man,

Code of signal.

Shall consist of what in mines are more than one hundred feet deep.

the rope riders and the engineer shall consist of wires or a tube or tubes through which signals shall be communicated by electricity, compressed air or other pneumatic devices.

The following signals are provided for use at coal mines where signals are required:

One ring or whistle.

One ring or whistle:—One ring or whistle shall signify to hoist coal or the empty cars or cage, and also to stop either when in motion.

Two rings or whistle.

Two rings or whistles:—Two rings or whistles shall signify to lower cage or car.

Three rings or whistles.

Three rings or whistles:—Three rings or whistles shall signify that men are coming up; when return signal is received from engineer, either by bell, whistle or slight movement of the trip, men will get on cage or cars and the cager or rope rider shall ring or whistle "one" to start.

Return signals.

Four rings or whistles.

Four rings or whistles:—Four rings or whistles shall signify to hoist slowly, implying danger.

Five rings or whistles.

Five rings or whistles:—Five rings or whistles shall signify accident in the mine and call for stretchers.

From top to bottom one ring or whistle.

From top to bottom:—One ring or whistle shall signify—All ready get on cage or cars.

Two rings or whistles.

From top to bottom:—Two rings or whistles shall signify—To send empty cages or cars.

When code may be added to or changed.

Provided: That the management of any mine may, with the consent of the State Coal Mine Inspector, add to or change this code of signals at their discretion for the purpose of increasing its efficiency or of promoting the safety of the men in said mine, but, whatever code may be established and in use at any mine it must be approved by the State Coal Mine Inspector, and shall be conspicuously posted at the top and at the bottom of every shaft or slope, and at the landing place on all rope haulage systems, also in all engine rooms for the information and instruction of all persons. In any coal mine, where more than fifty men are employed underground, one or more telephones shall be installed communicating with the surface.

Code of signals to be posted at top and bottom of shaft or slope and landing places and engine rooms.

Telephones to be installed where.

Duties of Hoisting Engineers.

Section 100. The hoisting engineer on any shaft, slope

or drift at any mine shall be in constant attendance at his engine during working hours when there are workmen underground. He shall not permit any one to enter or to loiter in the engine room except those authorized by their positions or duties to do so, and he shall hold no conversation with any officer of the company or other person, or leave his engine, while in motion or while his attention is occupied with the signals. A notice to this effect shall be posted on the door of the engine house.

Hoisting engineers. Duties.

Notices to be posted in engine room.

The hoisting engineer must thoroughly understand the established code of signals, and such signals must be delivered in the engine room in a clear and unmistakable manner, and he shall not recognize any signals other than those provided for in this Act, or such as have been approved by the State Coal Mine Inspector; and when he has the signal that men are on the cage, car or cars, he must work his engine only at the rate of speed herein provided for by this Act. He shall permit no one to handle or meddle with any machinery under his charge, nor suffer any one who is not a certified engineer to operate his engine except for the purpose of learning to operate it or repair same, and then only in the presence of the engineer in charge and when men are not on the cages, car or cars.

Must thoroughly understand established signal.

Shall recognize none but Code signals.

Shall permit no one to handle or meddle with any machinery under his care, excepting.

Qualifications of Miners.

Section 101. Each person desiring to work by himself at mining or loading shall first produce satisfactory evidence, in writing, to the mine foreman of the mine in which he is employed, or to be employed, that he has worked at least nine months with, under the direction of, or as a practical miner, provided, however, that if the mine in which such person is to be employed generated explosive gas or fire firedamp, he shall have worked not less than twelve months with, under the direction of, or as a practical miner. Until a person has so satisfied the mine foreman of his competency, he shall not work or be permitted to work at mining or loading unless accompanied by a miner holding the foregoing qualifications.

Who may be permitted to work at mining or loading alone.

Provided, in mine producing explosive gas or fire-damp.

Operators Must Make Reply to Statistical Inquiry.

Section 102. Every Coal Mine operator, whether person, co-partnership or corporation shall within thirty days

Coal mine operator must fill out and mail to State Coal Mine Inspector blanks for data, when.

after receipt of blanks from the State Coal Mine Inspector asking for statistical data relative to any Coal mine operated by the person, co-partnership or corporation addressed, fill in the blanks of such forms, answering all interrogations correctly and mail the same to the State Coal Mine Inspector.

Penalties.

Operator, company or corporation failing or neglecting to comply with requirements of Act.

Section 103. If any operator, company or corporation neglects to comply with, or violate, the requirements of this Act, either in part or in whole, or if any owner, operator, manager, superintendent, mine foreman or his assistant coerces, intimidates or causes any employee to do the things prohibited, or causes them to do as provided against in this Act, such operator, company, corporation, manager, superintendent, mine foreman or his assistant shall be liable to a penalty of twenty-five dollars for each and every day during which the offense continues; proceedings to be instituted in any court of competent, jurisdiction in the County in which such offense is committed.

Coercing or causing employee to do anything prohibited.

Penalty.

Proceedings to be instituted when.

State Coal Mine Inspector to proceed against parties named failing to comply with certain requirements of Act.

In case of the failure of any operator, company or corporation to comply with the provisions in this Act in relation to the sinking of escapement shaft or the ventilation of mines the State Coal Mine Inspector, through the County Attorney for the County in which such failure occurs, or through any other attorney in case the County Attorney fails to act promptly, shall proceed against such operator by injunction, without bond, to restrain him from continuing to operate such portion of the mine until all legal requirements have been complied with.

By injunction.

Duty of State Mine Inspector to order compliance with Act and to prosecute, when.

When the State Coal Mine Inspector shall discover that any section of this Act, or any part thereof, is being neglected or violated he shall order immediate compliance therewith and in case of continued failure to comply shall, through the County Attorney or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith through the penalties herein prescribed.

Fees to be allowed attorney acting when county attorney fails.

If it becomes necessary, through refusal or failure of the County Attorney to act, for any other attorney to appear for the State in any suit involving the enforcement of any of the provisions of this Act, reasonable fees for

the services of such attorney shall be allowed by the County Commissioners in and for the County in which such proceedings are instituted.

County Commis-
sioners shall allow
fees.

Any employee engaged at work in or around any coal mine in the State of Montana, or any other person, who violates any part of this Act shall for each offense be liable to a penalty not exceeding five dollars, or in default of payment shall be imprisoned in the county jail for a period of time not exceeding ten days, proceedings to be instituted in any court of competent jurisdiction in the County in which such offense is committed. Any person, firm or corporation who compounds, sells or offers for sale to dealers any oil for illuminating purposes in any coal mine in this State, contrary to the provisions of Section 97 of this Act, shall, upon conviction thereof, be fined not less than fifty dollars nor more than one hundred dollars and for the second offense, or any subsequent offense shall be fined not less than one hundred dollars or imprisonment not less than thirty days nor more than sixty days, or both at the discretion of the Court, proceedings to be instituted in any court of competent jurisdiction.

Penalty in case
any employee or
other person vio-
lates any pro-
vision of Act.

When proceedings
are to be insti-
tuted.

Selling or offering
to sell oil to any
dealer for illumi-
nating purposes in
mine contrary to
provisions of
Section 97
herein.

Penalty.

Any person, firm or corporation who sells, or offers for sale, to any employee of a coal mine any oil for illuminating purposes in a mine contrary to the provisions of Section 97 of this Act, shall, upon conviction thereof, be fined not less than twenty five dollars or more than fifty dollars, and for a second or subsequent offense shall be fined not less than twenty-five dollars and not more than fifty dollars or imprisonment, not less than ten days and not more than twenty days, or both at the discretion of the Court, proceedings to be instituted in any Court of competent jurisdiction.

Selling or offering
to sell to any coal
mine employee
such oil.

Penalty.

Proceedings to be
instituted when.

Definitions.

Section 104. (a) "Mine." In this Act the words "Mine" and "coal mine" used in their general sense are intended to signify any and all underground parts of the property of a mining plant which contribute, directly or indirectly, under one management, to the mining or handling of coal.

The words "Mine"
and "Coal Mine"
defined for the
purposes of this
Act.

(b) "Excavations or Workings." The words "excavations" and "workings" signify any and all parts of a mine

"Excavations" and
"Workings" de-
fined.

excavated or being excavated, including shafts, slopes, tunnels, entries, rooms and working place, whether abandoned or in use.

"Shaft" defined.

(c) "Shafts." The term "shaft" means any verticle opening through the strata which is or may be used for the purpose of ventilation or escapement, or for hoisting or lowering of men or material in connection with the mining of coal.

"Slope" and
"Drift" defined.

(d) "Slope" or "Drift." The terms "slope" and "drift" mean respectively an incline or horizontal way, opening or tunnel to a seam of coal to be used for the same purpose as a shaft.

"Following Shot"
defined.

(e) "Following shot." A "following shot" is a shot which is dependent in its action on the result of another shot.

"Operator" de-
fined.

(f) "Operator." The term "operator" as applied to the party in control of a mine under this Act, signifies the person, firm or body corporate who is the immediate proprietor as owner or lessee of the plant and, as such responsible for the condition and management thereof.

"Mine Foreman"
defined.

(g) "Mine Foreman." The "mine foreman" is a person who is charged with the general direction of the underground work, or both the underground work and the outside work of any coal mine, and who is commonly known and designated as "mine boss."

"Mine Boss."

"Mine Examiner"
defined.

(h) "Mine examiner." The "mine examiner" is the person charged with the examination of the condition of the mine before the miners are permitted to enter it, and who is commonly known as the "fire boss."

"Fire Boss."

Repealing Clause.

Section 105. The following sections 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, and 1710, 2023 of the revised codes of the State of Montana and Chapter 64 and 69 of the laws of 1909, of the State of Montana are hereby expressly repealed, and all other acts or parts of acts in conflict herewith.

Appropriations.

Section 106. There is hereby appropriated out of the general fund of the State not otherwise appropriated, sufficient funds for the salary of the State Coal Mine Inspector and for the maintenance of the Boards herein

provided for and the proper enforcement of this Act according to its intent and purpose.

Section 107. All Acts and parts of Acts in conflict with this Act are hereby repealed. Repealing Clause.

Section 108. This shall take effect and be in force from and after (90) ninety days from and after its passage and approval by the Governor. Time when Act shall take effect.

Approved March 7th, 1911.

Depositing Coal Slack in Streams Prohibited.

(Revised Codes.)

Section 8557. **Depositing Coal Slack in Streams.** All persons owning or having in operation, and all persons who may hereafter own or put in operation in the State of Montana, either in person or by agent, any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, are hereby required to so care for any coal slack or other refuse emanating from such coal mining operation as to prevent the same from mingling with the waters of such streams. Dumping coal slack in streams forbidden.

Section 8558. **Same—Penalty.** All persons owning or operating, or who may hereafter own or operate any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, who shall dump, cart or deposit, or cause or suffer to be deposited in such stream any such coal slack or other refuse emanating from such coal-mining operation shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than two hundred (\$200) dollars nor more than five hundred (\$500) dollars for each and every offense. Penalty for violation of Section.

DIVISION III.
LAWS APPLICABLE TO BOTH QUARTZ AND
COAL MINING.

(Article V, Part III, Title VII, Chapter II, Revised
Codes, 1907).

Chapter 1.

Hours and Regulation of Labor.

- Section 1734. Hours of Labor, Hoisting Engineers.
1735. Penalties.
1736. Hours of Labor, Underground Mines.
1737. Same, Smeltermen.
1738. Penalty.
1789. Hours of Labor—Municipalities—Mines—Mill and
Smelters.
1740. Penalty.

Constitution.

Day's labor; Hours
constituting.

Article XVIII, Section 4. A period of eight hours shall constitute a day's work on all works or undertakings carried on or aided by any municipal, county or state government, and on all contracts let by them, and in mills and smelters for the treatment of ores, and in underground mines.

(Revised Codes.)

Eight-hour day
for hoisting engi-
neers.

Section 1734. Hours of Labor—Hoisting Engines. That on after the first day of May, A. D., 1903, it shall be unlawful for any person or persons, company or corporation, to operate or handle, or to induce, persuade or prevail upon any person or persons to operate, or handle, for more than eight hours in twenty-four hours of each day, any hoisting engine at or in any mine. This Act shall apply only to such plants as are in continuous operation or are operated sixteen or more hours in twenty-four hours of each day, or at or in any mine where said hoisting engine develops fifteen or more horse power, or at or in any mine where said hoisting engine develops fifteen or more horse power, or at or in any mine wherein there are fifteen or more men employed underground in twenty-four hours of each day. Provided, however, that the provisions of this Act shall not apply to any person or persons operating any hoisting engine more than eight hours in each twenty-four hours for the pur-

Act applicable to
what hoisting en-
gines.

Exception in case
of sickness.

pose of relieving another employee in case of sickness or other unforeseen cause or causes.

Section 1735. **Penalties.** Any person or persons, company or corporation, who shall violate any of the provisions of this Act, shall, upon conviction, be punished by a fine of not less than ten (\$10.00) dollars, nor more than one hundred (\$100.00) dollars; and each and every day that such person or persons, company or corporation may continue to violate any of the provisions of this Act shall be considered a separate and distinct offense and shall be punishable as such.

Penalty for violating Act.

Section 1736. The period of employment of working men in all underground mines or workings, including railroad or other tunnels, shall be eight (8) hours per day, except in cases of emergency where life and property is in imminent danger.

Hours of labor in underground mines, railroad and other tunnels.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Amended, Laws 1911, page 25.

Section 1737. **Same—Smeltermen.** The period of employment of working men in smelters, stamp mills, sampling works, concentrators, and all other institutions for the reduction of ores, and refining of ores or metals, shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Hours of labor for smelter, mill and other men.

Section 1738. **Penalty.** Any person or persons, body corporate, agent, manager or employer who shall violate any of the provisions of Section 1736 or 1737 of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, for each offense, be subject to a fine of not less than One Hundred Dollars or more than Five Hundred Dollars, or by imprisonment in the county jail for a period of not less than one (1) month, or more than six (6) months or by both such fine and imprisonment.

Penalty.

Section 1739. **Hours of Labor for Municipalities, Mines, Mills and Smelters.** A period of eight (8) hours shall constitute a day's work on all works or undertakings carried on or aided by any Municipal, County or State Government, and on all contracts let by them, and in mills and smelters for the treatment of ores, and in underground

Hours of labor on governmental works.

Penalty.

mines, and in the washing, reducing or treatment of coal.

Section 1740. **Penalties.** Every person, corporation, stock company or association of persons who violate any of the provisions of Section 1739 of this Act shall be guilty of a Misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred (100) Dollars nor more than Five Hundred (\$500) Dollars, or by imprisonment in the county jail for not less than Thirty Days nor more than Six Months, or by both such fine and imprisonment.

Chapter 2.

Prohibitions Against Child Labor.

(Article IV., Part III., Title VII., Chapter II., Revised Codes).

Section 1746. Employment of Children Under Sixteen Years in Certain Occupations Prohibited.

- 1747. Liability of Parent.
- 1748. Record of Children Under Sixteen Years of Age.
- 1749. Age Certificate.
- 1750. Enforcement of Act.
- 1751. Penalties.
- 1752. Prohibiting Employment of Children in Mines.
- 1753. Permitting Employment—Misdemeanor.
- 1754. Penalties.

Constitution.

Children under 16 years of age.

Article XVIII., Section 3: It shall be unlawful to employ children under the age of sixteen (16) years of age in underground mines.

(Revised Codes.)

Employment of children in certain occupation forbidden.

Section 1746. **Employment of Children in Certain Occupations Prohibited.** Any person, company, firm, association, or corporation engaged in business in this State, or any agent, officer, foreman or other employee having control or management of employees or having the power to hire or discharge employees, who shall knowingly employ or permit to be employed any child under the age of sixteen years, to render or perform any service or labor, whether under contract of employment or otherwise, in, on, or about any mine, mill, smelter, workshop, factory, steam, electric, hydraulic, or compressed air railroad, or passenger or freight elevator or where any machinery is

operated, or for any telegraph, telephone or messenger company, or in any occupation not herein enumerated which is known to be dangerous or unhealthful, or which may be in any way detrimental to the morals of said child, shall be guilty of a misdemeanor and punishable as hereinafter provided.

Section 1747. Liability of Parent. Any parent, guardian or other person having the care, custody or control of any child under the age of sixteen years, who shall permit suffer or allow any such child to work or perform service for any person, company, firm, association or corporation doing business in this State, or who shall permit or allow any such child over whom he has such care, custody or control, to retain such employment as is prohibited in Section 1746 of this Act, whether under contract of employment or not, shall be guilty of a misdemeanor and punishable as hereinafter provided.

Parents, guardians and persons forbidden to permit children under 16 years of age to be employed in certain occupations.

Section 1748. Record of Children Under Age of Sixteen Years. The Commissioner of the Bureau of Agriculture, Labor and Industry shall compile and preserve in his office from reports made to him by the County Superintendent of Schools, as otherwise provided, a full and complete list of the name, age, date of birth and sex of each child, and the names of the parents or guardians of each child under the age of sixteen years who is now or may hereafter becomes a resident of this State, and such list shall be the official record of the age of children in this State.

Record of ages of children to be kept by commissioners of the Bureau of Agriculture, Labor and Industry.

Section 1749. Age Certificate. Upon attaining the age of sixteen years any child may make application to the Commissioner of the Bureau of Agriculture, Labor and Industry for an age certificate, which must be presented to any employer with whom such child may seek employment. The employer if such employment be given, must countersign the certificate, and return the same to the commissioner of said bureau who shall keep the same on file in his office. Any person, firm, company, association or corporation who employs or permits to be employed in any occupation prohibited in Section 1746 of this Act, any child without such certificate showing the child to be at least sixteen years of age, shall be guilty of a mis-

Age certificate to be issued to children reaching age of sixteen.

Penalty for employing children without age certificate.

demeanor and punishable as hereinafter provided, should such child prove less than 16 years of age.

Duty to prosecute violations of Act.

Section 1750. **Enforcement of Act.** To enforce this act the Commissioner of the Bureau of Agriculture, Labor and Industry, the Bureau of Child and Animal Protection and all county attorneys shall, each upon their own volition, or upon the sworn complaint of any reputable citizen that this act is being violated, make prosecutions for such violations.

Penalties for violating Act.

Section 1751. **Penalties.** Every person, firm, company, association or corporation who violates any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars nor more than Five Hundred Dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment.

Forbidding the employment of children under sixteen in underground workings.

Section 1752. **Prohibiting Employment of Children in Mines.** Any person, corporation, stock company or association of persons, owning or operating any underground mine, or any officer, agent, foreman or boss, having the control or management of employees, or having the power to hire or discharge employees, who shall employ, or knowingly permit to be employed any child under the age of sixteen years, for work or service in any such mine, or the underground workings thereof, or permit or allow any such child to render or perform any work or service whatever in such mine, whether under contract of employment or otherwise, shall be guilty of a misdemeanor and punishable as hereinafter provided.

Duty of parents and guardians of children under sixteen years of age regarding employment.

Section 1753. **Permitting Employment—Misdemeanor.** Any parent, guardian or other person having the care, custody, or control of any child under the age of sixteen years, who shall permit, suffer, or allow such child to work in any mine having underground workings, or who shall permit or allow any such child over whom they may have such care, custody or control to retain employment in any such mine, or who, after having knowledge that any such child has taken employment in any such mine, or is performing work or service therein, whether under contract of employment or not, shall fail forthwith to

notify the person or corporation owning or operating such mine, or some officer, foreman or employee thereof having the power to hire or discharge employees, of the age of such child, shall be guilty of a misdemeanor and punishable as hereinafter provided. Misdemeanor.

Section 1754. **Penalties.** Any person or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than Twenty-five Dollars (\$25) nor more than Five Hundred (\$500) Dollars, or by imprisonment in the County Jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment. Penalty.

Chapter 3.

Personal Injuries—Obligations of Employer.

(Article II., Division III., Part IV., Title VI., Chapter I., Revised Codes.)

Section 5246. Mines, Mills, and Smelters—Vice Principals.

5247. Contract of Insurance not to Release Employers.

5248. Mining Companies Liable for Negligence of Certain Employees.

5249. Contract of Insurance no Bar to Recovery.

5250. Survival of Action.

Section 5246. **Mines, Mills and Smelters—Vice Principals.** That every company, corporation, or individual operating any mine, smelter or mill for the refining of ores shall be liable for all damages sustained by an employee thereof within this State, without contributing negligence on his part when such damage is caused by the negligence of any superintendent, foreman, shift-boss, hoisting or other engineer, or crane-men.

Liability of mine operators for negligence of certain employees.

Section 5247. **Contract of Insurance not to Release Employer.** No contract of insurance, relief, benefit, or indemnity in case of injury or death, nor any other contract entered into either before or after the injury, between the person injured and any of the employers named in this Act shall constitute any bar or defense to any cause of action brought under the provisions of this Act.

What insurance and relief contract not a defense in case of death.

Section 5248. **Mining Companies Liable for Negligence of Certain Employees.** That every company, corporation,

Liability of mine operators, et al. for negligence of certain employees.

or individual operating any mine, smelter or mill for the refining of ores shall be liable for any damages sustained by any employees thereof within this state, without contributing negligence on his part, when such damage is caused by the negligence of any superintendent, foreman, shift-boss, hoisting, or other engineer, or crane men.

Certain contracts not a bar of action or defense.

Section 5249. Contract of Insurance no Bar to Recovery. No contract of insurance, relief, benefit, or indemnity in case of injury or death, nor any other contract entered into before the injury between the persons injured and any of the employers named in this Act shall constitute any bar or defense to any cause of action brought under the provisions of this Act.

Survival of action.

Section 5250. Survival of Action. In case of the death of any such employees in consequence of any injury or damages so sustained, the right of action shall survive and may be prosecuted and maintained by its heirs, or personal representatives.

Chapter 4.

Extortion by Foremen, Etc.

(Part I., Title XIII., Chapter VII., Revised Codes.)

Section 8678. Receipt or Solicitation of Gifts, by Foreman From Employees.

8679. Immunity of Witnesses.

Receiving or soliciting compensation for employment by certain persons.

Section 8678. Receipt or Solicitation of Gifts, by Foremen From Employees. That any superintendent, foreman, assistant boss, or any other person or persons, who shall receive, or solicit, or cause to be received or solicited, any sum of money or other valuable consideration, from any person for or on account of the employment, or the continuing of the employment of such person, or of any one else, or for, or on account of any promise, or agreement, to employ or to continue to employ, any such person, or any one else, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand (\$1,000) dollars, or undergo an imprisonment in the county jail of not more than one (1) year, or both, at the discretion of the court.

Section 8679. Immunity of Witnesses. No person shall

be excused from attending or testifying, or producing any books, papers, documents, or any thing, or things before any court, or magistrate upon any investigation, proceeding, or trial, for a violation of any of the provisions of this Act, upon the ground, or for the reason that the testimony, or evidence, documentary, or otherwise required of him, may tend to convict him of a crime, or to subject him to a penalty, or forfeiture; but no person shall be prosecuted or subjected to any penalty, or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence of documentary or otherwise; and no testimony or evidence so given, or produced shall be received against him in any civil or criminal proceeding, action or investigation.

Witnesses who may not be exempt from testifying.

Witnesses who shall not be prosecuted.

Chapter 5.

Company Store Act.

(Part III., Title VII., Chapter II., Article V., Revised Codes.)

Section 1744. Labor—Payment—What Illegal.

1745. Violation of Act—Penalty.

Section 1744. Labor—Payment in Script Prohibited. It shall be unlawful for any person, firm, company, corporation or trust, or the business manager or agent of any such person, firm, company, corporation or trust, to sell, give, deliver or in any way directly or indirectly, to any employed by him, or it in payment of wages due or to become due, any script, token, check, draft, order, credit, or any book of account or other evidence of indebtedness payable to bearer or to his assignees, except as hereinafter provided, but such wages shall be paid only in lawful money of the United States, or by check or draft drawn upon some bank in which such person, firm, company, corporation or trust or the agent or business manager of such person, firm, company, corporation, or trust, has money upon deposit to cash the same, and no assignment of any wages due or to become due to any employee, shall be made to any person, firm, company, corporation or trust, or the business manager or agent of any such person, firm, company, corporation or trust, or to any one

Wages to be paid in lawful money of United States.

Assignment of wages to certain persons forbidden.

Not applicable to certain persons.

interested directly or indirectly, in any firm, company, corporation or trust employing said laborer. And any contract to the contrary shall be void; provided, however, this shall not prevent ranchmen, farmers, lumber camps, or mining camps from supplying their employees or paying said employees in other than cash or check where there is no bank or other store than that owned by said employers at which said employees may purchase supplies, or cash their bankable checks received for their labor.

Section 1745. **Violation of Act—Penalty.** Every person, company, corporation or trust or agent or business manager of such firm, company, corporation or trust who violates any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than One Hundred (\$100.00) Dollars, or more than Five Hundred (\$500.00) Dollars or by imprisonment in the county jail of not less than one month or more than six months, or by both such fine and imprisonment.

Penalty for violating Act.

DIVISION IV.

MISCELLANEOUS PROVISIONS.

Chapter 1.

Location of Quartz Lode Mining Claims.

(Revised Codes.)

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| Section 2283 | Discovery, Notice, Marking Boundaries, Sinking Shaft. |
| 2284. | Record of Certificate of Location. |
| 2285. | Mill Sites. |
| 2286. | Reclamation of Abandoned Claims. |
| 2287. | Rights of Relocator. |
| 2288. | Amended Location. |
| 2289. | Relocation by Owner. |
| 2290. | Amendment or Relocation not a Waiver of Acquired Rights. |
| 2291. | Rights of Third Persons not Affected. |
| 2292. | Validating Locations Heretofore Made. |
| 2293. | Defective Locations Good Against Persons With Notice. |
| 2294. | Effect of Patent. |
| 2295. | Amended Locations. |
| 2296. | Effect of Amended or Additional Declaratory Statement—Record. |

3613. (Political Code, 1895). Placer Locations Heretofore Made, Effect of.

3614. (Political Code, 1895). Annual Work—Affidavit—Contents—Record.

3616. (Political Code, 1895). Official Survey—Certificate—Part of Declaratory Statement.

Section 2283. Discovery—Notice—Marking Boundaries

—Sinking Shaft. Any person who discovers, upon the public domain of the United States, within the State of Montana, a vein, lode or ledge of rock in place, bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits, or a placer deposit of gold, or other deposit of minerals having a commercial value which is subject to entry and patent under the mining laws of the United States, may, if qualified by the laws of the United States, locate a mining claim upon such vein, lode, ledge or deposit, in the following manner, viz:

Manner of locating mining claims on the public domain.

I. He shall post, conspicuously, at the point of discovery a written or printed notice of location, containing the name of the claim, the name of the locator, (or locators, if there be more than one), the date of the location, which shall be the date of posting such notice, and the approximate dimensions of area of the claim intended to be appropriated.

Posting notice of discovery.

II. Within thirty days after posting the notice of location, he shall distinctly mark the location on the ground so that its boundaries can be readily traced. It shall be prima facie evidence that the location is properly marked if the boundaries are defined by a monument at each corner or angle of the claim, consisting of any one of the following kinds: (1) A tree at least eight inches in diameter, and blazed on four sides. (2) A post at least four inches square by four feet six inches in length, set one foot in the ground, unless solid rock should occur at a less depth, in which case the posts should be set upon such rock, and surrounded in all cases by a mound of earth or stone at least four feet in diameter by two feet in height. A squared stump, of the requisite size, surrounded by such mound shall be deemed the equivalent of a post and mound. (3) A stone at least six inches square by eighteen inches in length, set two-thirds of its length in the ground, with a mound of earth or stone along side

Defining boundaries.

Corner posts.

at least four feet in diameter by two feet in height, or (4) a boulder at least three feet above the natural surface of the ground on the upper side.

Lesser monu-
ments.

Where other monuments, or monuments of lesser dimensions than those above described, are used, it shall be a question for the jury, or for the court where the action is tried without a jury, as to whether the location has been marked upon the ground so that its boundaries can be easily traced. Whatever monument is used, it must be marked with the name of the claim and the designation of the corner, either by number or cardinal point.

Discovery shaft.

III. Within sixty days after posting such notice, he shall sink a shaft upon the vein, lode or deposit, at or near the point of discovery, to be known as the discovery shaft. Such shaft shall be sunk to the depth of at least ten feet, vertically, below the lowest part of the rim of

Depth of shaft.

such shaft at the surface, or deeper if necessary to disclose the vein or deposit located, and the cubical contents of such shaft shall be not less than one hundred and fifty cubic feet; provided, that any cut or tunnel which

Cuts and tunnels.

discloses the vein, lode or deposit located at a vertical depth of at least ten feet below the natural surface of the ground and which constitutes at least one hundred and fifty cubic feet of excavation, shall be deemed the equivalent of such shaft, and, provided also, that, where the

Horizontal extension of workings and other excavations.

vein, lode or deposit located is disclosed at a less vertical depth than ten feet, any deficiency in the depth of the discovery shaft, cut or tunnel may be compensated for by any horizontal extension of such working, or by any excavation done, elsewhere upon the claim, equalling, in cubical contents, the cubical extent of such deficiency; but in every case at least 75 cubic feet of excavation shall be made at the point of discovery.

Certificate of Declaration of location and record.

Section 2284. **Record of Certificate of Location.** Within sixty days after posting the notice of location and for the purpose of constituting constructive notice of the location, the locator shall record his location in the office of the county clerk of the county in which such mining claim is situated. Such record shall consist of a certificate of location containing:

- I. The name of the lode or claim. Contents.
- II. The name of the locator or locators, if there be more than one.
- III. The date of location, and such description of said claim, with reference to some natural object or permanent monument as will identify the claim.
- IV. In the case of a lode claim, the direction and distance claimed along the course of the vein each way from the discovery shaft, cut or tunnel, with the width claimed on each side of the center of the vein. Lode claims.
- V. In the case of a placer claim, the dimensions of area of the claim, and the location thereon the discovery shaft, cut or tunnel. Placers.
- VI. The locator and claimant, at his option, may also set forth, in such certificate of location, a description of the discovery work, the corner monuments and the markings thereon, and any other facts showing a compliance with the provisions of this law.
- Such certificate of location must be verified, before some officer authorized to administer oaths, by the locator, or one of the locators, if there be more than one, or by authorized agent. In the case of a corporation, the verification may be made by any officer thereof, or by an authorized agent. When the verification is made by an Agent, the fact of the agency shall be stated in the affidavit. Verification to be made.
- A certificate of location so verified, or a certified copy thereof, is prima facie evidence of all facts properly recited therein. Certificate of location to be prima facie evidence of what.
- Section 2285. **Mill Sites.** Millsite claims may be located and recorded in the same manner as other claims, except that no discovery or discovery work is required. Where a millsite claim is appurtenant to a mining claim, the certificate of location of such millsite claim shall describe, by appropriate reference, the mining claim to which it is appurtenant. Location of Mill site claims.
- Section 2286. **Relocation of Abandoned Claim.** The relocator of an abandoned or forfeited mining claim may adopt as his discovery any shaft or other working, existing upon such claim at the date of the relocation, in which the vein, lode or deposit is disclosed, but, in such shaft Re-location of abandoned or forfeited claims.
- Discovery work.

or other working, he shall perform the same discovery work as is required in the case of an original location.

Rights of relocator shall date from when

Section 2287. **Rights of Re-locator.** The rights of a re-locator of any abandoned or forfeited mining claim, hereafter re-located, shall date from the posting of his notice of location thereon, and, while he is duly performing the acts required by law to perfect his location, his rights shall not be affected by any re-entry or resumption of work by the former locator or claimant.

Amending location and changing boundaries.

Amended certificate.

Section 2288. **Amended Location.** A locator or claimant may, at any time, amend his location and make any change in the boundaries which does not involve a change in the point of discovery as shown by the discovery shaft by marking the location as amended upon the ground, and filing an amended certificate of location conforming to the requirements of an original certificate of location. A defect in a recorded certificate of location may be cured by filing an amended certificate.

Owners may re-locate when.

Changing boundaries.

Section 2289. **Re-location by Owner.** A locator or claimant may at any time, re-locate his own claim for any purpose, except to avoid the performance of annual labor thereof, and, by such re-location, may change the boundaries of his claim, or the point of discovery, or both, but such re-location must comply in all respects, with the requirements of this law as to an original location.

Re-location not a waiver of acquired rights.

May rely upon either when.

Proviso.

Section 2290. **Amendment or Re-location Not a Waiver of Acquired Rights.** Where a locator or claimant amends or re-locates his own claim, such amendment or re-location shall not be construed as a waiver of any right or title acquired by him by virtue of the previous location or record thereof, except as to such portions of the previous location as may be omitted from the boundaries of the claim as amended or re-located. As to the portion of ground included both in the original location and the location as amended or re-located, he may rely either upon the original location or the location as amended or re-located, or upon both. Provided, that nothing herein contained shall be construed as permitting the locator or claimant to hold a tract which does not include a valid discovery.

Section 2291. **Rights of Third Persons not Affected.** No

amendment or re-location of a mining claim by the locator or claimant thereof shall interfere with the right of any third person existing at the time of such amendment or re-location.

Rights of third persons not affected.

Section 2292. Validating Locations Heretofore Made.

All mining locations, made and recorded under the laws of this state, heretofore in force, that in any respect have failed to conform to the requirements of such laws, shall, nevertheless, in the absence of the rights of third persons accruing prior to the passage of this Act, be valid if the making and recording of such locations conform to the requirements of this Act.

Validating certain prior defective locations.

Section 2293. Defective Locations Good Against Persons With Notice.

The period of time, prescribed by this law for the performance of any act, shall not be deemed mandatory where the act is performed before the rights of the third persons have intervened, and no defect in the posted notice or recorded certificate shall be deemed material, except as against one who has located the same ground, or some portion thereof, in good faith and without notice. Notice to an agent, who makes a location in behalf of another, shall be deemed notice to his principal and notice to one of several co-claimants shall be deemed notice to all.

Compliance with statutory requirements before the intervention of rights of third persons.

Notice to agent, effect of.

Section 2294. Effect of Patent. The issuance of a United States Patent for a mining claim shall be deemed conclusive that the requirements of the laws of this state relative to the location and record of such mining claim, have been duly complied with; provided, however, that where questions of priority are involved the date of the location shall be an issuable fact where it is claimed to have been prior to the date of the record of the location.

U. S. Patent conclusive of what.

Proviso.

Section 2295. Amended Locations. If at any time the locator of any mining claim heretofore or hereafter located, or his successors or assigns, shall apprehend that his original declaratory statement was defective or erroneous, or that the requirements of law had not been complied with, or shall be desirous of changing his boundaries, or taking in any part of an overlapping claim which has been abandoned, or in case his original declaratory statement was filed prior to the passage of this law, and he

When an amended location may be filed.

Not to interfere
with existing
rights.

Not to lessen lo-
cator's prior
rights.

Prior Amended
Declaratory state-
ments, force and
effect of.

Prior Placer loca-
tions.

Affidavit of an-
nual work on
placer claims.

shall be desirous of securing the benefit of this Act, such locator, or his successors or assigns, may file an additional or amended declaratory statement, subject to the provisions of this Act; provided that such re-location or filing of the amended or additional declaratory statement shall not interfere with the existing rights of others at the time of such re-location or filing of the amended or additional declaratory statement, and no such re-location or amended or additional declaratory statement, or other record thereof, shall preclude the claimant or claimants from proving any such title as he or they may have held under the previous location and notice thereof.

Section 2296. Effect of Amended or Additional Declaratory Statement. Any amended or additional declaratory statement which may have heretofore been filed by a locator, or his successors or assigns, shall have the same force and effect and be subject to the same terms and conditions as though the same had been filed under the provisions of Section One of this Act.

(Political Code of 1895.)

Section 3613. Placer Locations Heretofore Made—Effect of. All placer mining locations or locations of valuable mineral deposits, which have heretofore been recorded in the office of the County Clerk or Recorder, have the same force and effect as though such records had been authorized by law, except in cases where the rights of third persons had been acquired before the passage of this Code; and such record is entitled to be admitted in evidence in any court.

(Political Code of 1895.)

Section 3614. Annual Work—Affidavit—Contents—Record. The owner of a lode or placer claim who performs or causes to be performed the annual work or makes the improvements required by the laws of the United States in order to prevent the forfeiture of the claim, may, within twenty days after the annual work, file in the office of the County Clerk of the county in which such claim is situated an affidavit of his own, or an affidavit of person who performed such work or made the improvements, showing:

- I. The name of the claim and where situated.

2. The number of days' work done, and the character and value of the improvements placed thereon. Contents of affidavit.

3. The dates of performing such work and of making the improvements.

4. At whose instance the work was done or the improvements made.

5. The actual amount paid for work and improvements, by whom paid, when the same was not done by the owner.

Such affidavits, or a certified copy thereof are prima facie evidence of the facts therein stated.

(Political Code of 1895).

Section 3616. **Official Survey—Certificate—Part of Declaratory Statement.** Where a locator or owner of a mining claim has the boundaries and corners of his claim established by a United States Deputy Mineral Surveyor, and his claim connected with a corner of the public or minor surveys, or an established initial point, and incorporates into the declaratory statement the field notes of such survey, and attaches to and files with such declaratory statement, a certificate by the surveyor setting forth:

When official survey of mining claim becomes a part of the declaratory statement.

1. That such survey was actually made by him, giving the date thereof. Certificate.

2. The names of the claim surveyed and the locators thereof.

3. That the description incorporated in the declaratory statement is sufficient to identify the claim.

Such survey and certificate becomes a part of the declaratory statement and such declaratory statement is prima facie evidence of the facts therein contained.

Prima facie evidence of what.

(The last three sections above have not been repealed, but are in inadvertently omitted from the Revised Codes of 1907.)

Chapter 2.

STATE LANDS.

Disposition of Mineral Lands.

(Laws of 1909, Chapter 147, p. 289.)

(Provisions Relating to Other Than Coal or Mineral Lands Omitted).

CHAPTER 147.

An Act providing for the Management and Control of the Lands now owned by or hereafter to be Acquired by the State of Montana, including the Sale and Rental thereof, and the Management, Protection, and Disposition of the Timber Growing thereon and the Coal, Oil, and Minerals therein; * * * and Defining and Providing for the punishment of Certain Offenses for Violating the Provisions of this Act.

Be it enacted by the Legislative Assembly of the State of Montana:

State coal lands.

May be leased but not sold.

Surface right may be sold.

Coal lands may be withdrawn from sale.

Coal, gas and oil to be reserved in all sales of state lands.

Section 28. **Coal Lands—What Deemed—Selection.** All coal areas in the state after final examination are defined by the United States Geological Survey, or other authority under the Government of the United States, shall be recognized by the authorities of this state as coal lands, until otherwise determined; and no such lands shall be sold, but such lands may be leased by the state to any person or persons, company or corporation but only on a royalty basis as herein provided; provided, however, that the surface rights of such land may be sold or may be leased for either agricultural or grazing purposes, but any other state lands may be designated as coal lands by the State Board of Land Commissioners, and withdrawn from sale when, in the opinion of the board, such lands contain coal.

Section 34. **Sale of State Lands—Reservation of Coal, Oil and Gas.** The State Board of Land Commissioners may direct the sale of any state lands, except as provided in this act, * * * and, provided, further, that all leases and conveyances of state lands by the State Board of Land Commissioners shall contain a reservation to the state of all coal, oil and gas contained therein.

Section 70. **Rental of Coal Lands.** Any person, association, co-partnership or corporation, leasing and operat-

ing coal land under the provisions of this Act, shall pay to the State the minimum price of not less than ten (10) cents per ton, for each and every ton of merchantable coal so mined from said land, to be paid monthly on or before the 25th day of each month, for the coal mined during the preceding calendar month. Should the lessee of such coal land fail to mine during any one year the minimum amount that may be provided for in the term of the lease, he shall, notwithstanding such failure, pay to the state the minimum rental provided for in said lease. Should any person apply to lease any of the coal lands belonging to the State, upon which there are surface or underground improvements placed or made by a former lessee, before a lease shall issue, said applicant shall file in the office of the Register a receipt showing that the price of said improvements, as agreed upon by the parties, or fixed by the State Land Agent, or one of his assistants, has been paid to the owner thereof in full, or shall make satisfactory proof that he has tendered to such owner the price of such surface or underground improvements so agreed upon or fixed; or proof that the owner of such improvements elects to remove them.

Royalties on state coal land leases.

Must pay royalty on minimum fixed regardless of mining.

Lessee must purchase improvements on lands if not removed by former lessee.

Section 71. Location of Mining Claims on State Lands. Locations of mining claims not exceeding six hundred (600) feet in width and fifteen hundred (1500) feet in length, each, may be made upon lands belonging to the State as follows: The discoverer of a body of mineral in either a vein, lode, or ledge, or mineral in a placer deposit shall immediately post conspicuously a notice that he has made such a discovery, on the date stated in such notice, and shall complete such location in all respects as prescribed by the laws of this State for the location of mining claims upon the public lands of the United States, except that no notice of such location need be recorded in the office of the County Clerk, but such notice shall be filed with the Register of State Lands. Such procedure shall empower the locator to retain possession of and operate said claim for the period of one year, at the end of which time, he shall be required to purchase said claim ten dollars per acre or take a lease thereof at such price, or upon such terms as may be

Location of mining claim may be made on state lands.

Notice of discovery.

Notice be filed when.

Must pay \$10 per acre or lease land within one year.

agreed upon between him and the State Board of Land Commissioners.

Section 72. Proof of Mineral Character of Land. Before the locator will be allowed to purchase the claim located by him, satisfactory proof at a hearing, if deemed necessary, must be submitted to the State Board of Land Commissioners, that such claim is more valuable for mineral purposes than for any other purpose, and that the same contains a body of mineral in place, or a placer deposit, of sufficient value to justify the operation of the same as a present fact; provided, that no mining claim shall be located upon any coal or oil lands; and, provided, further, that all hearings under the provisions of this section shall be had before the contest board with like procedure as other contested cases; and provided, further, that no lands classified under subdivision four of the classification in the constitution shall be sold as mineral lands, but the mineral therein may be sold separately from the surface.

Section 73. Lands Valuable for Stone. Whenever it shall appear to the State Board of Land Commissioners that there is a deposit of stone valuable for building, mining, or other commercial purposes upon any section or subdivision of State Land, the board shall not lease the same for any purpose except for the extraction and working of the stone and then upon a royalty basis only, upon such terms as the board shall prescribe. The board may lease the remainder of the section or subdivision for agriculture, grazing, or other purposes, as may appear for the best interests of the state, as other state lands are leased; but shall provide in all such cases for a right of way across said state land or any adjoining state land for all purposes connected with the working and disposition of the stone.

Proofs of mineral character of claim required.

Coal lands excepted.

Hearings.

Lands within limits of town or city or 3 miles thereof reserved.

Stone quarries to be leased upon a royalty basis only.

Remainder of land may be leased.

Right of way to be reserved.

Chapter 3.

Acquisition of Water Rights.

(Title VII., Division II., Part IV., Revised Codes.)

- Section 4840. What Waters May be Appropriated.
4841. Appropriations to be for Useful Purpose.
4842. Point of Diversion May be Changed.
4843. Water turned Into Natural Channel May be Re-claimed.
4844. Return of Surplus Water to Stream.
4845. First in Time, First in Right.
4847. Notice of Appropriation.
4848. Diligence in Appropriating.
4849. Effect of Failure to Comply With Provisions.
4850. Record of Declaration.
4851. Record Prima Facie Evidence.
4852. Rights Settled in One Action.
4853. Record of Declaration Notices.
4854. Measurement of Water—Cubic Foot.
4855. Miners' Inch—Equivalent in Gallons.
4856. Act not to Affect Existing Decrees.
4857. Right to Construct Dams.
4858. Highways to be Protected.
4859. Penalty for Violating Preceding Section.
4860. Owners of Water May Sell Surplus.
4861. Duty of Purchaser to Dig Ditches.
4862. Enforcement of Right to Surplus.
4863. Purchaser Cannot Sell.
4864. Dam or Reservoir to be Securely Constructed.
4865. No Person to Use Insecure Reservoir.
4866. Surveys of Ditches—Filing Map.
4867. Effect of Decree upon Subsequent Appropriators.
4868. Appropriations Subject to Prior Decrees.
4869. Non-adjudicated Streams not Affected by Act.
4870. Appropriations Pending Litigation Subject to Decree.
4871. Appropriation From Adjudicated Stream—Notice.
4872. Application Filed With Clerk of District Court.
4873. Duties of Court.
4874. Deposit for Expenses.
4875. Payment of Expenses.
4876. Record of Survey.
4877. Statutory Measurements.
4878. Penalty.
4879. Effect of Decree.
4884. Appointment of Water Commissioner.
4887. Objection to Commissioner's Award.
4888. Record of Commissioner—Expenditures.

4889. Fees and Compensation.

4890. Users Must Maintain Head Gates, etc.

Water rights acquired by appropriation.

Section 4840. **What Waters May be Appropriated.** The right to the use of any unappropriated water of any natural stream, water course, spring, dry coulee, or other natural source of supply, and of any running water flowing in the streams, rivers, canyons and ravines of this state, may hereafter be acquired by appropriation.

Appropriation must be for useful purposes.

Section 4841. **Appropriation to be for Useful Purpose.** The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest abandons and ceases to use the water for such purpose the right ceases; but questions of abandonment shall be questions of fact and shall be determined as other questions of fact.

Abandonment.

Place of diversion and use changed and ditch extended, when.

Section 4842. **Point of Diversion May be Changed.** The person entitled to the use of water may change the place of diversion, if others are not thereby injured, and may extend the ditch, flume, pipe, or aqueduct, by which the diversion is made, to any place other than where the first use was made, and may use the water for other purposes than that for which it was originally appropriated.

Use of and mingling waters in other streams.

Section 4843. **Water Turned Into Natural Channel May be Reclaimed.** The water appropriated may be turned into the channel of another stream and mingled with its waters, and then be reclaimed, but, in reclaiming it, water already appropriated by another must not be diminished in quantity, or deteriorated in quality.

Must return surplus water to streams for use by later appropriator.

Section 4844. **Return of Surplus Water to Streams.** In all cases where by virtue of prior appropriation, any person may have diverted all the water of any stream, or to such an extent that there shall not be an amount sufficient left therein for those having a subsequent right to the waters of such stream, and there shall, at any time, be a surplus of water so diverted, over and above what is actually and necessarily used by the prior appropriator, such person shall be required to turn and cause to flow back into the stream, such surplus water, and upon failure so to do, within twenty-four hours after demand being made upon him in writing to him in person or at his place of abode, by any person having a right to the use of such surplus water, the person so diverting the same shall be

Liable for damages for failure to do so, when.

liable to the person aggrieved for the damage resulting therefrom, in such sum as may be determined by court.

Section 4845. **First in Time, First in Right.** As between appropriators the one first in time is first in right.

First in time, first in right.

Section 4847. **Notice of Appropriation.** Any person hereafter desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended diversion, stating therein:

Notice of appropriation to be posted.

1. The number of inches claimed, measured as hereinafter provided.

Contents of notice.

2. The purpose for which it is claimed and place of intended use.

3. The means of diversion, with size of flume, ditch, pipe, or aqueduct by which he intends to divert it.

4. The date of appropriation.

5. The name of the appropriator.

Within twenty days after the date of appropriation the appropriator shall file with the County Clerk of the County in which such appropriation is made a notice of appropriation, which in addition to the facts required to be stated in the posted notice, as hereinbefore prescribed, shall contain the name of the stream from which the diversion is made, if such stream have a name, and if it have not, such a description of the stream as will identify it, and an accurate description of the point of diversion on such stream, with reference to some natural object or permanent monument. The notice shall be verified by the affidavit of the appropriator, or some one in his behalf, which affidavit must state that the matters and facts contained in the notice are true.

Notice to be filed when and where.

Additional facts to be stated in filed notice.

Verification of notice.

Section 4848. **Diligence in Appropriating.** Within Forty Days after posting such notice the appropriator must proceed to prosecute the excavation or construction of the work by which the water appropriated is to be diverted, and must prosecute the same with reasonable diligence to completion. If the ditch or flume, when constructed, is inadequate to convey the amount of water claimed in the notice aforesaid, the excess claimed above the capacity of the ditch or flume shall be subject to appropriation by any other person, in accordance with the provisions of this Title.

Time within which work on ditch shall be commenced and how prosecuted.

Amount of water appropriated limited by ditch capacity.

Failure to comply with provisions of Act.

Relation back.

Record of declaration of former locations and appropriations.

Proviso.

Record to be prima facie evidence of what.

Actions to settle water rights on same streams.

Assessment of damages for wrongful diversion.

Section 4849. Effect of Failure to Comply With Provisions. A failure to comply with the provisions of this Title deprives the appropriator of the right to the use of water as against a subsequent claimant who complies therewith, but by complying with the provisions of this Title, the right to the use of the water shall relate back to the date of posting the notice.

Section 4850. Record of Declaration. Persons who have heretofore acquired rights to the use of water shall, within six months after the publication of this title, file in the office of the County Clerk of the county in which the water right is situated, a declaration in writing, except notice be already given of record as required by this Title, or a declaration in writing be already filed as required by this section, containing the same facts as required in the notice provided for record in Section 4847 of this title and verified as required in said last mentioned section in cases of notice of appropriation of water; Provided, that a failure to comply with the requirements of this section shall in no wise work a forfeiture of such heretofore acquired rights, or prevent any such claimant from establishing such rights in the courts.

Section 4851. Record Prima Facie Evidence. The record provided for in Sections 4847 and 4850, of this Title when duly made, shall be taken and received in all courts of this State as prima facie evidence of the statements therein contained.

Section 4852. Rights Settled in One Action. In any action hereafter commenced for the protection of rights acquired to water under the laws of this State, the plaintiff may make any or all persons who have diverted water from the same stream or source parties to such action, and the court may in one judgment settle the relative priorities and rights of all the parties to such action. When damages are claimed for the wrongful diversion of water in any such action, the same may be assessed and apportioned by the jury in their verdicts, and judgment thereon may be entered for or against one or more of several plaintiffs, or for or against one or more of several defendants, and may determine the ultimate rights of the parties between themselves.

In any action concerning joint water rights, or joint rights in water ditches, unless partition of the same kind is asked by parties to the action, the court shall hear and determine such controversy as if the same were several as well as joint.

Actions concerning joint water rights.

Section 4853. **Record of Declaration Notices.** The County Clerk must keep a well bound book, in which he must record the notices and declarations provided for in this Title, and he shall be entitled to have and receive the same fees as are now or hereafter may be allowed by law for recording instruments entitled to be recorded.

Record of declaratory notices.

Fees.

Section 4854. **Measurement of Water—Cubic Foot.** Hereafter a cubic foot of water (7.48 gallons) per second of time shall be the legal standard for the measurement of water in this State.

Legal standard for measurement of water.

Section 4855. **Miners' Inch—Equivalent in Gallons.** Where water rights expressed in miners' inches have been granted, one hundred miners' inches shall be considered equivalent to a flow of two and one-half cubic feet (18.7 gallons) per second; two hundred miners' inches shall be considered equivalent to flow of five cubic feet (37.4 gallons) per second, and this proportion shall be observed in determining the equivalent flow represented by any number of miners' inches.

Miners' inch; equivalent in gallons.

Section 4856. **Act Not to Affect Existing Decrees.** Provided, that the provisions of this bill shall not affect or change the measurement of water heretofore decreed by a Court, but such decreed water shall be measured according to the law in force at the time such decree was made and entered.

Measurement where rights have been fixed by decree of court.

Section 4857. **Right to Construct Dams.** The right to conduct water from or over the land of another for any beneficial use, includes the right to raise any water by means of dams, reservoirs or embankments to a sufficient height to make the same available for the use intended, and the right to any and all land necessary therefor, may be acquired upon payment of just compensation in the manner provided by law for the taking of private property for public use;

Lands for dams and reservoirs may be acquired by condemnation.

PROVIDED, FURTHER, that if it is necessary to conduct the water across the right of way of any railroad,

Notice to railroads before ditch can be constructed across right of way.

it shall be the duty of the owners of the ditch or flume to give thirty days' notice in writing to the owner or owners of such railway of their intention to construct a ditch or flume across the right of way of such railroad and the point at which the said ditch or flume will cross the railroad; also the time when the construction of said ditch or flume will be made. If the owner or owners of such railroad or their agent fails to appear and attend at the time and place fixed in said notice, it shall be lawful for the owner or owners of the said flume or ditch to construct the same across the right of way of such railroad, without further notice to said owner or owners of the railroad.

Duty of ditch owner to protect public highways.

Section 4858. Highways to be Protected. Any person who digs and construct ditches, dykes, flumes or canals, over or across any public roads or highways, or who uses the waters of such ditches, dykes, flumes or canals, is required to keep the same in good repair at such crossings or other places where the water from any such ditches, dykes, flumes or canals may flow over, or in any wise injure any roads or highways, either by bridging or otherwise.

Penalty for violation of preceding section.

Section 4859. Penalty for Violating Preceding Section. Any person offending against the preceding section, on conviction thereof, shall pay for every offense a fine of not less than twenty-five dollars, nor more than one hundred dollars, with cost of prosecution. One-half of the fine shall be paid into the County Treasury for the benefit of the common schools of the county in which the offense was committed and the other half shall be paid to the person informing the nearest magistrate that such offense has been committed, who shall issue a warrant upon proper complaint being made.

Disposition of fines collected.

Persons owning surplus waters may be compelled to sell the same.

Section 4860. Owners of Water May Sell Surplus. Any person having the right to use, sell or dispose of water, and engage in using, selling or disposing of the same, who has a surplus of water, not used, or sold, or any person having a surplus of water, and the right to sell and dispose of the same, is required upon the payment or tender to the person entitled thereto an amount equal to the usual and customary rates per inch, to convey and deliver

to the person such surplus of unsold water, or so much thereof for which said payment or tender shall have been made, and shall continue so to convey and deliver the same weekly so long as said surplus of unused or unsold water exists and said payment or tender be made as aforesaid.

Section 4861. **Duty of Purchaser to Dig Ditches.** Any person desiring to avail himself of the provisions of the preceding section must, at his own cost and expense, construct or dig the necessary flumes or ditches to receive and convey the surplus water so desired by him, and pay or tender to the person having the right to the use, sale or disposal thereof, an amount equal to the necessary cost and expense of tapping any gulch, stream, reservoir, ditch, flume or aqueduct, and putting in gates, gauges or other proper and necessary appliances usual and customary in such cases, and until the same shall be done, the delivery of the said surplus water shall not be required as provided in the preceding section.

Duty of persons desiring to purchase surplus water.

Section 4862. **Enforcement of Right to Surplus.** Any person constructing the necessary ditches, aqueducts or flumes, and making the payments or tenders hereinbefore provided, is entitled to the use of so much of the said surplus water as said ditches, flumes or aqueducts have the capacity to carry, and for which payment or tender is made, and may institute, and maintain any appropriate action at law or in equity for the enforcement of such right or recovery of damages arising from a failure to deliver or wrongful diversion of the same.

Actions to compel sale of surplus water or recover damages for refusal.

Section 4863. **Purchaser Cannot Sell.** Nothing in the three preceding sections shall be so construed as to give the person acquiring the right to the use of water as therein provided, the right to sell or dispose of the same after being so used by him, or prevent the original owner or proprietor from retaking, selling and disposing of the same in the usual and customary manner, after it is so used as aforesaid.

Purchases under the 3 preceding sections cannot sell water so acquired.

Section 4864. **Dam or Reservoirs to be Securely Constructed.** No person shall hereafter fill, or procure to be filled with water, any dam or reservoir which is not so thoroughly and substantially constructed as that it will

Dams required to be secure.

safely and securely hold the water to be turned therein.

Use of insecure
dams forbidden.

Section 4865. **No person to Use Insecure Reservoir.** No person shall hereafter construct, or cause to be constructed, on a stream, any dam or reservoir to accumulate the waters thereof, except in a thorough, secure and substantial manner.

Notice of intended
survey of ditches.
Where published.

Section 4866. **Surveys of Ditches—Filing Map.** Any person availing himself of the provisions of the preceding Sections, and who shall have complied with said preceding Sections relating to the appropriation of water, may, within six months after his ditch is completed, publish a notice once a week for two successive weeks, in a newspaper designated by the County Commissioners as the official paper of the County, stating that he will, on a date to be therein mentioned which date shall be not less than twenty nor more than thirty days after the first publication of said notice, cause said ditch to be surveyed by a competent Civil Engineer, whose name shall be given, and stating the name of stream, and such a general description as will identify the ditch. It shall be the duty of said person to employ a competent civil engineer to make such survey, and it shall be the duty of such civil engineer to survey said ditch, ascertain its grade, measure the headgate thereof, and measure said ditch in such other places as may be necessary to show its carrying capacity, and also measure the land irrigated by said ditch, or proposed to be irrigated thereby, and to make a map showing the general courses of the ditch and the land irrigated or proposed to be irrigated therefrom, giving the grade and the dimensions of the head gate and other dimensions of the ditch where measured, and attach thereto his affidavit showing the date when he commenced the survey of said ditch, the date when completed, the names of the persons who assisted him, and that said map and the date given thereon are correct.

Qualifications and
duty of engineer.

Map to be made
and verified by
affidavit.

Survey may be
made when.

Notice of post-
ponement to be
given to whom.

If for any reason the survey cannot be made upon the day designated in the notice, it may be made on any subsequent day, and the person who caused said survey to be made shall file an affidavit showing why the survey was not made on the day mentioned in the notice; Provided, however, that if any person appears upon the

ground at the time mentioned in the notice and serves a written notice that he desires to be present when said survey is made, the person who caused said ditch to be made shall give such person at least three days' written notice of the time when said ditch shall be surveyed. The said survey of said ditch may be continued from day to day, or from time to time, as may be necessary to complete it, and any person shall have the right to be present at said survey. The map made by the surveyor, his affidavit, and the affidavit of publication of the notice aforesaid, shall within thirty days from the completion of said survey, be held in the office of the Clerk and Recorder of the county wherein the notice of appropriation is filed, and such affidavit and map, or certified copies thereof, shall be prima facie evidence of the facts therein shown and stated in all courts in this State in actions relating to said ditch and water right.

Map, affidavits and notice to be held where.

Prima facie evidence of what.

Section 4867. Effect of Decree upon Subsequent Appropriations. Whenever there shall have been an adjudication of the rights between appropriators or claimants, any stream or any other water supply in this State, in any District Court of the State, or the United States Court, in an action prosecuted in good faith between such appropriators, or claimants, to determine their respective rights to the use of such waters, and which decree is based upon evidence introduced and not upon stipulations or admissions of the parties, such adjudication and decree, or certified copies thereof, shall, as against all persons, appropriating or diverting any of the waters of said stream, or other water supply after the date of such decree, in an action relating to such waters, be prima facie evidence of the facts therein found, determined and decreed, respecting the rights of parties to said action to the use of the waters of said stream, or other water supply.

Adjudication of water rights in a stream shall bind subsequent appropriators to what extent.

Shall be prima facie evidence of what facts.

Section 4868. Appropriations of Water Subject to Prior Decrees. All water hereafter appropriated by any person, association, company, or corporation after the passage of this Act, from any stream, creek, spring, canyon, river or ravine in this State, in which the water rights therein have been adjudicated and decreed prior to the passage of this Act, and a decree of a Court of Competent

Subsequent appropriations shall be subject to decrees had prior to passage of this Act.

Jurisdiction entered therein shall be subject to such decree.

Appropriations in non-adjudicated streams.

Section 4869. **Non-adjudicated Streams not Affected by Act.** In all streams, creeks, springs, canyons, rivers and ravines, in which the water rights therein have not been adjudicated by a Court of Competent Jurisdiction, water shall be appropriated in the same manner as provided by law, at the time of the passage of this Act.

Appropriations pending litigation subject to decisions therein.

Section 4870. **Appropriations Pending Litigation Subject to Decree.** At such time as there may be legal proceedings instituted by the owner or owners of any water right or water rights in any stream, spring, creek, canyon, river or ravine, before any Court of Competent Jurisdiction, all subsequent appropriations made in any such streams, creeks, springs, canyons, rivers or ravines will be subject to such suit as may be instituted and shall not date prior to the date of the beginning of said suit, and will be subject to the rulings and decisions thereunder.

Notice of appropriation in streams in which existing rights have been adjudicated.

Section 4871. **Appropriation From Adjudicated Stream Notice.** Any person desiring to appropriate water in any stream, creek, canyon, river or ravine, wherein the rights of water therein have been adjudicated and decreed, shall post a notice in writing in a conspicuous place at the point of the intended diversion, stating therein:

Contents of notice.

1. The flow claimed, expressed in cubic feet per second.
2. The purpose for which said water is claimed, and the place of intended use.
3. The name of the stream, creek, spring, canyon, river, or ravine.
4. The name of the appropriator or appropriators.
5. The date of posting said notice.

Work of diversion to be prosecuted how.

The work in the construction and completion of the means of diverting and conveying water to place of use, shall be prosecuted with reasonable diligence, otherwise no rights shall be acquired by such appropriator, and no appropriator shall acquire any rights to water in excess of the carrying capacity of the ditch or means of conveying water, nor in excess of the amount actually needed by the appropriator for some useful and beneficial purpose.

Amount not to exceed capacity of ditch.

Application to have ditch capacity measured.

Section 4872. **Application Filed With Clerk of District Court.** Within forty days from the date of the comple-

tion of the works of irrigation, the appropriator shall file with the Clerk of the District Court in the County in which said water is to be appropriated, an application in writing to have such ditch measured and the capacity determined, as herein provided.

Such application shall contain the sworn statement of the appropriator, in which is given the name of the stream from which said water is to be appropriated, the amount of water to be diverted, the intended point of diversion, the intended use of such water, and the place of intended use, and the name of the appropriator.

Contents of application.

The Clerk of the District Court upon receipt of such application, duly executed and presented by the applicant or his attorney shall enter the same upon the court records of said county, and thereupon issue an order directing a competent civil engineer to proceed to measure and determine the capacity of said ditch (expressed in flow of cubic feet second) definitely locate the exact point of the diversion by a course and distance to some established corner of the public surveys, or if there be no such corner within two miles of said ditch, then a connecting line shall be run to some suitable permanent object or monument that will not be destroyed or defaced, and to report the results of such measurements and surveys, together with a plat, in duplicate, on which shall be shown the location of said point of diversion, together with the connecting line, to the corner of the public surveys or monuments, the size and capacity of the ditch and headgate, the date of the notice of appropriation, the date of the survey, the name of the stream, the name of the appropriator or appropriators, the purpose and place of intended use, and in case the use be for irrigation, the plat must show the location and area of land to be irrigated thereby, and make such returns to the Clerk of the Court within thirty (30) days from the receipt of said order.

Duty of Clerk of District Court on filing of application.

Duty of engineer.

The Clerk shall thereupon cause to be published, in the newspaper published nearest the point of diversion once a week in three successive issues of said paper, a notice giving the name of the appropriator, amount of appropriation, and name of stream from which the water is appropriated. Any person or persons interested in the waters

Publication by Clerk of District Court.

of said stream may, on or before the last day of publication, file with the clerk, written objections to such appropriation.

Hearing before
the District Court.

Power of the
Court.

Deposit of expense
money.

Clerk to fix and
estimates by the
Clerk.

Engineer shall be
paid by the Clerk
of the Court.

Section 4873. **Duties of Court.** The Clerk of the District Court, immediately after the expiration of the period of publication, the receipt of the report and plat of the surveyor, and proof of publication of notice, shall file the same, and on the first day of a regular or special term of court thereafter, shall present all papers to the court for consideration. If no objections are filed, the court shall enter an order allowing said appropriation. If objections are made, the court shall fix a day for hearing, and on such hearing witnesses may testify, and the court after hearing may make any order deemed proper in the premises.

Section 4874. **Deposit for Expenses.** The appropriator shall, at the time of filing his application with the Clerk of the District Court, make a deposit with said clerk, in a sum sufficient to cover all expense for the legal fees for filing any action, together with stenographer's fees, and fees for filing and recording all decrees and other papers in the matter, and the cost of the survey, not to exceed ten dollars per day, and necessary traveling expenses, and five dollars for each plat filed, said sum to be fixed and estimate made by the Clerk of the District Court, and residue remaining in the possession of said clerk, when all fees and costs are paid shall be returned to the applicant; should there not be sufficient money deposited to meet all fees and expenses said water right shall be of no force and effect, until the same have been paid.

Section 4875. **Payment of Expenses.** The Clerk of the District Court, shall upon receipt of any report made in conformity with the provisions of this Act, and duly certified to by a civil engineer, pay to him out of the moneys deposited with him for said purpose, a sum not to exceed ten dollars per day and necessary traveling expenses, and five dollars for each plat made and filed, upon the civil engineer presenting the proper bill, duly sworn to, for said expenses. A receipt of any such payment shall be given to the Clerk.

Section 4876. **Record of Survey.** The Clerk of the District Court shall keep in his office a suitable bound book, in which shall be kept an accurate record of all surveys and reports made in accordance with this Act.

Clerk to keep record of all surveys and reports.

Section 4877. **Statutory Measurements.** Where water rights have been decreed in statutory or miners' inch be equivalent to a flow of two and one half cubic feet per second, and one hundred miners' or statutory inches shall be equivalent to a flow of two and one cubic feet per second, and this proportion shall be observed in determining the equivalent flow of any number of miners' or statutory inches.

To determine measurement when rights have been decreed in statutory or miners' inches.

Section 4878. **Penalty.** A failure to comply with the provisions of this Act deprives the appropriator of the right to such decree, as against a subsequent claimant who complies herewith.

Penalty by forfeiture.

Section 4879. **Effect of Decree.** Any person or persons appropriating water under the provisions of this Act shall be subject to, bound by, and shall comply with any decree of court adjudicating the waters of such stream, or any stream of which the same may be a tributary or feeder, as fully and to the same extent as if said person or persons were original parties to the action wherein the said decree is made and entered, and any water commissioner or commissioners, appointed by the court to distribute waters under any decree shall have jurisdiction over, and shall distribute any waters appropriated under the provisions of this Act, according to priority.

Appropriator under this Act bound by prior adjudication of waters in the streams.

Section 4880. **Effect of Failure to Comply With Provisions.** A failure to comply with the provisions of this Act, deprives the appropriator of the right to use any water of such stream, as against any subsequent appropriator complying herewith, and as against any prior appropriator mentioned in or bound by a decree of court.

Failure to comply with provisions of Act.

Section 4890. **Users Must Maintain Head Gates, Etc.** All persons using water under a decree from any stream whereon a water commissioner is appointed, shall be required to have suitable head gates at the point wherein a ditch taps a stream, and shall also, at some suitable place on the ditch and as near the head thereof as practicable, place and maintain a proper measuring box, weir or other

Headgates required on adjudicated streams.

Measuring box.

appliance for the measurement of the waters flowing in such ditch. In case any person or persons shall fail to place or maintain a proper measuring appliance, it shall be the duty of such water commissioner not to apportion or distribute any water through said ditch.

Chapter 4.

Mining Partnerships.

(Revised Codes.)

Section 5535. Definition.

5536. Express Agreement not Necessary.

5537. Profits and Losses, How Shared.

5538. Liens of Partners.

5539. Mine—Partnership Property.

5540. Partnership not Dissolved by Sale of Interest.

5541. Purchaser Takes Subject to Liens.

5542. Takes With Notice of Lien, When.

5543. How Partnership Bound.

5544. Owners of Majority of Shares Govern.

Mining partner-
ship defined.

Section 5535. **Definition.** A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same.

Partnership arises
from what.

Section 5536. **Express Agreement Not Necessary.** An express agreement to become partners or to share the profits and losses of mining, is not necessary to the formation and existence of a mining partnership. The relation arises from the ownership of shares or interests in the mine and working the same for the purpose of extracting the minerals therefrom.

Profits and losses,
how shared.

Section 5537. **Profits and Losses, How Shared.** A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine bears to the whole partnership capital or whole number of shares.

Partners lien.

Section 5538. **Liens of Partners.** Each member of a mining partnership has a lien on the partnership property for the debts due the creditors thereof, and for money advanced by him for its uses. This lien exists notwithstanding there is an agreement among the partners that it must not.

Section 5539. **Mine is Partnership Property.** The min-

ing ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property. When mining ground is partnership property.

Section 5540. Partnership Not Dissolved by Sale of Interest. One of the partners in a mining partnership may convey his interest in the mine and business without dissolving the partnership. The purchaser, from the date of his purchase, becomes a member of the partnership. Sale of interest in mine and business does not dissolve partnership.

Section 5541. Purchaser Takes Subject to Liens. A purchaser of an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership, unless he purchased in good faith, for a valuable consideration, without notice of such lien. Purchaser takes subject to lien when.

Section 5542. Purchaser Takes With Notice of Lien, When. The purchase of the interest of a partner in a mine when the partnership is engaged in working it, takes with notice of all liens resulting from the relation of the partners to each other, and to the creditors of the partnership. Purchaser takes notice of lien when.

Section 5543. How Partnership Bound. No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership, except by express authority derived from the members thereof. What necessary to bind partnership.

Section 5544. Majority of Shares Governs. The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business. Majority rules.

Miners', Assayers', and Mining Engineers', Exemption From Execution.
(Revised Codes.)

Section 6825. In addition to the property mentioned in the preceding section, there shall be exempt to all judgment debtors who are married, or who are heads of families the following property: * * * To a miner: His cabin or dwelling, sluices and thousand dollars, and one horse or mule with harness, and food for such horse or mule, for three months when such horse or mule is used in working his mine or mining claim. Property of mine exempt from execution.

Assayer.

To a * * mining * * engineer: Instruments, tools, books and records necessary to carry on his profession.

To an * * * * assayer: The tools, instruments and supplies necessary to carry on his profession.

Liens of Mechanics on Mining Property.
(Revised Codes.)

Miners' lien.

Section 7290. Every mechanic, miner, machinist, architect, foreman, engineer, builder, lumberman, artisan, workman, laborer, and any person performing any work and labor upon, or furnishing any material, machinery or fixture for any building, structure, bridge, flume, canal, ditch, aqueduct, mining claim, quartz lode, tunnel, city or town lot, farm, ranch, fence, railroad, telegraph, telephone, electric light, gas or water works or plant, or any improvements upon complying with the provisions of this Chapter, for his work or labor done, or material, machinery or fixtures furnished, has a lien upon the property upon which the work or labor is done, or material furnished.

Fixtures Attached to Mine.
(Revised Codes.)

What deemed fixtures to mines.

Section 4428. Sluice boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills, and all other machinery or tools used in working or developing a mine are to be deemed affixed to the mine.

Fraud in Selling Mines, Etc.
(Revised Codes.)

Selling mines.

False assays.

Section 8692. Use of False Pretenses in Selling Mines.
8693. Interference With Samples for Assay.
8694. Making False Samples of Ore.

Section 8692. **False Pretensions in Selling Mines.** Every person who, with intent to cheat, wrong, or defraud, places in or upon any mine or mining claim any ores or specimens of ores not extracted therefrom, or exhibits any ore, or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining claim, or interest therein, or who obtains any money or property by any such false pretenses or artifices, is guilty of a felony.

Section 8693. **Interference With Samples for Assay.** Every person who interferes with, or in any manner changes samples of ores or bullion producing for sampling or changes or alters samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong, or defraud is guilty of a felony.

Fraudulently changing or altering samples or packages of ores or bullion or certificate of assays.

Section 8694. **Making False Samples of Ores.** Every person who, with intent to cheat, wrong, or defraud, makes or publishes a false sample of ore or bullion, or who makes or publishes, or causes to be published a false assay of ore or bullion is guilty of a felony.

Fraudulently publishing false certificates or assays of ores.

Destroying Notices—Penalty.

(Revised Codes.)

Section 8759. Every person who intentionally:

1. Defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification set up at any place in this State by authority of any law of the United States or of this State or by order of any court, before the expiration of the time for which the same was to remain set up; or,

2. Defaces, obliterates, tears or destroys any notice placed or posted on a mining claim, or removes or destroys any stake or monument placed thereon to identify it

Destroying or tearing down any notice or monument on mining

Is punishable by imprisonment in the county jail not exceeding three months or by a fine not exceeding one hundred dollars, or both.

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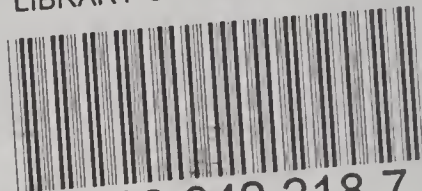
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